

# District of Columbia Code

*1981 Edition*



Property of the District of Columbia Government















# **DISTRICT OF COLUMBIA CODE**

**ANNOTATED**

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**1981 EDITION**

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**With Provision for Subsequent Pocket Parts**

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CONTAINING THE LAWS, GENERAL AND PERMANENT IN THEIR NATURE,  
RELATING TO OR IN FORCE IN THE DISTRICT OF COLUMBIA  
(EXCEPT SUCH LAWS AS ARE OF APPLICATION IN THE  
DISTRICT OF COLUMBIA BY REASON OF BEING  
GENERAL AND PERMANENT LAWS OF THE  
UNITED STATES), AS OF DECEMBER 31,  
1993, AND NOTES TO DECISIONS  
THROUGH DECEMBER 31, 1993

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**VOLUME 3**

**1994 REPLACEMENT**

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**TITLE 2—DISTRICT BOARDS AND COMMISSIONS  
TITLE 3—PUBLIC CARE SYSTEMS**

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1994



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By

THE DISTRICT OF COLUMBIA

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## USER'S GUIDE

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the District of Columbia Code, a User's Guide has been included in Volume 1 of the Code. This guide contains comments and information on the many features found within the District of Columbia Code intended to increase the usefulness of the Code to the user.





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\*Title has been enacted as law.

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\*Title has been enacted as law.



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§ 2-101. Purpose.

It is the policy of the District of Columbia and the purpose of this chapter to promote the dependability of information which is used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public or private. The public interest requires that persons attesting as experts in accountancy to the reliability or fairness of presentation of such information be qualified in fact to do so; that a public authority competent to prescribe and assess the qualifications of public accountants be established; and that the attestation of financial information by persons professing expertise in accountancy be reserved to persons who demonstrate their ability and fitness to observe and apply the standards of the accounting profession. (1973 Ed., § 2-941; Mar. 16, 1978, D.C. Law 2-59, § 2, 24 DCR 5975.)

**Section references.** — This section is referred to in § 2-103.

**Legislative history of Law 2-59.** — Law 2-59, the "District of Columbia Public Accountancy Act of 1977," was introduced in Council and assigned Bill No. 2-69, which was referred to the Committee on Public Services and Con-

sumer Affairs. The Bill was adopted on first, amended first, and second readings on July 26, 1977, October 25, 1977, and November 8, 1977, respectively. Signed by the Mayor on January 9, 1978, it was assigned Act No. 2-130 and transmitted to both Houses of Congress for its review.

§ 2-102. Definitions.

As used in this chapter:

- (1) The term "Board" means the District of Columbia Board of Accountancy established under § 2-103.
- (2) The term "Council" means the Council of the District of Columbia as established under § 1-221 (a).



(3) The term "District" means the District of Columbia.

(4) The term "Mayor" means the Mayor of the District of Columbia, as established under § 1-241 (a).

(5) The term "state" includes any state, territory or insular possession of the United States and the District of Columbia.

(6) The term "valid permit" means an unexpired permit which has not been suspended or revoked. (1973 Ed., § 2-942; Mar. 16, 1978, D.C. Law 2-59, § 3, 24 DCR 5975.)

**Legislative history of Law 2-59.** — See note to § 2-101.

## § 2-103. Board of Accountancy.

(a) There is hereby established a board of accountancy in and for the District to be known as the District of Columbia Board of Accountancy and to consist of 5 members appointed by the Mayor.

(b) The Board shall be appointed as follows:

(1) One member of the Board shall be appointed from among those persons registered as public accountants under § 2-109, and 1 member of the Board shall be appointed from among persons who are not accountants and who represent the consumer in accountancy.

(2) Three members of the Board shall each hold a certificate as a certified public accountant issued under § 2-107, hold a valid permit to practice issued under § 2-114 and, at the time of the member's appointment, have been engaged in the practice of public accountancy as a certified public accountant in the District for a period of not less than 5 years.

(c) The members of the Board first appointed under this chapter shall be appointed for terms of office as follows: One member for a term of 1 year; 2 members for a term of 2 years each; and 2 members for a term of 3 years each. Their successors shall be appointed for a term of 3 years. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of a member's term of office, that member shall continue to serve until his or her successor has been appointed. No person who has served 2 successive full terms shall be eligible for reappointment until after the lapse of 1 year. An appointment to fill an unexpired term shall not be considered a full term.

(d) The Mayor may remove any member of the Board appointed under subsection (b) (2) of this section whose permit to practice has become void or has been revoked or suspended. The Mayor may, after a hearing, remove any member of the Board for neglect of duty or other just cause.

(e) The Board shall promulgate regulations for the orderly conduct of its affairs and for the administration of this chapter.

(f) A majority of the Board shall constitute a quorum for the transaction of business.

(g) The Board is authorized to adopt a seal.

(h) The Board shall meet at least once a year.

(i) The Board is authorized to prescribe such rules and regulations not inconsistent with the provisions of this chapter as it deems consistent with or required by the public welfare and policy set forth in § 2-101. Such rules and regulations shall include but are not limited to the following:

- (1) Rules of procedure;
- (2) Rules of professional conduct for establishing and maintaining high standards of competence and integrity in the profession of public accountancy;
- (3) Regulations governing educational requirements for the issuance of the certificate of certified public accountant and requirements of continuing education to be met from time to time by the holders of such certificates and permits as a condition of their continuing in the practice of public accountancy; and
- (4) Regulations governing corporations practicing public accounting including but not limited to:
  - (A) Rules concerning their style, name, title, and affiliation with any other organization;
  - (B) Establishing reasonable standards with respect to professional liability insurance and unimpaired capital; and
  - (C) Prescribing joint and several liability for torts relating to professional services for the shareholders of any corporation practicing public accounting and failing to comply with the standards issued under this paragraph. (1973 Ed., § 2-943; Mar. 16, 1978, D.C. Law 2-59, § 4, 24 DCR 5975.)

**Section references.** — This section is referred to in §§ 1-1462, 2-102 and 2-114.

**Legislative history of Law 2-59.** — See note to § 2-101.

## § 2-104. Fees.

The Mayor is authorized to set fees, including such fees as may be necessary to cover the costs of administering this chapter, and the dates of issuance and expiration of certificates and permits to practice under this chapter. (1973 Ed., § 2-944; Mar. 16, 1978, D.C. Law 2-59, § 5, 24 DCR 5975.)

**Legislative history of Law 2-59.** — See note to § 2-101.

## § 2-105. Use of title or designation — Acts declared unlawful.

(a) Except as permitted by the Board pursuant to § 2-106, no person shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant, unless the person has received a certificate as a certified public accountant under § 2-107, holds a valid permit issued under § 2-114 and all of the person's offices in the District for the practice of public accounting are maintained and registered as required under § 2-113.

(b) No partnership or corporation shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title,

designation, words, letters, abbreviation, sign, card, or device tending to indicate that the partnership or corporation is composed of certified public accountants unless the partnership or corporation is registered as a partnership or corporation of certified public accountants under § 2-111, holds a valid permit issued under § 2-114 and all offices of such partnership or corporation in the District for the practice of public accounting are maintained and registered as required under § 2-113.

(c) No person shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a public accountant unless that person is:

(1) Registered as a public accountant under § 2-109, holds a valid permit issued under § 2-114 and all of such person's offices in the District for the practice of public accounting are maintained and registered as required under § 2-113; or

(2) A certified public accountant under § 2-107.

(d) No partnership or corporation shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the partnership or corporation is composed of public accountants unless it is a partnership or corporation of public accountants as described in § 2-112 or a partnership or corporation of certified public accountants under § 2-111, holds a valid permit issued under § 2-114, and all offices of the partnership or corporation in the District for the practice of public accounting are maintained and registered as required under § 2-113.

(e) No person, partnership, or corporation shall assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," "accredited accountant," or any other title or designation likely to be confused with "certified public accountant" or "public accountant," or any of the abbreviations "CA," "PA," "RA," "LA," or "AA," or similar abbreviations likely to be confused with "CPA"; provided, however, that anyone who holds a valid permit issued under § 2-114 and all of whose offices in the District for the practice of public accounting are maintained and registered as required under § 2-113 may hold himself out to the public as an "accountant" or "auditor."

(f) No person shall sign or affix his or her name or any trade or assumed name used by the person in his or her profession or business to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing financial information or facts concerning compliance with conditions established by law or contract, including, but not limited to, statutes, ordinances, regulations, grants, loans, and appropriations, together with any wording accompanying or contained in the opinion or certificate which indicates that the person is either an accountant or an auditor or has expert knowledge in accounting or auditing, unless the person holds a valid permit issued under § 2-114 and all of the person's offices in the District for the practice of public accounting are maintained and registered under § 2-113; provided, however, that the provi-



sions of this subsection shall not prohibit any officer, employee, partner, or principal of any organization from affixing his or her signature to any statement or report in reference to the affairs of the organization with any wording designating the position, title, or office which he or she holds in the organization nor shall the provisions of this subsection prohibit any act of a public official or public employee in the performance of his or her official duties.

(g) No person shall sign or affix a partnership or corporate name to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing financial information or facts respecting compliance with conditions established by law or contract, including, but not limited to, statutes, ordinances, regulations grants, loans, and appropriations, together with any wording accompanying or contained in the opinion or certificate which indicates that the partnership or corporation is composed of or employs accountants, auditors, or other persons having expert knowledge in accounting or auditing, unless the partnership or corporation holds a valid permit issued under § 2-114 and its offices in the District for the practice of public accounting are maintained and registered as required under § 2-113.

(h) No person shall assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership or corporation or in conjunction with the designation "and Company" or "and Co." or a similar designation if there is in fact no bona fide partnership or corporation registered under § 2-111 or § 2-112; provided, that a sole proprietor or partnership lawfully using such title or designation in conjunction with such names or designation on the effective date of this chapter may continue to do so. (1973 Ed., § 2-945; Mar. 16, 1978, D.C. Law 2-59, § 6, 24 DCR 5975.)

**Section references.** — This section is referred to in §§ 2-106, 2-107, 2-109, 2-115, 2-119, and 2-120.

**Legislative history of Law 2-59.** — See note to § 2-101.

## § 2-106. Same — Exceptions.

(a) Nothing contained in this chapter shall prohibit any person not a certified public accountant or public accountant from serving as an employee of or an assistant to a certified public accountant, a public accountant, a partnership, or corporation composed of certified public accountants, public accountants holding a permit to practice issued under § 2-114 or a foreign accountant registered under § 2-110; provided, that such employee or assistant shall not issue any accounting or financial statement over his or her name.

(b) Nothing contained in this chapter shall prohibit a certified public accountant, a registered public accountant of a state, or any accountant who holds a certificate, degree or license in a foreign country, constituting a recognized qualification for the practice of public accounting in that country, from temporarily or periodically performing specific accounting work in the District if he or she is conducting a regular practice in the state or foreign country; provided, that the practice is incidental to his or her regular practice and

is conducted in conformity with the regulations and rules of professional conduct promulgated by the Board.

(c) Notwithstanding the prohibitions contained in § 2-105, a foreign accountant who has registered under the provisions of § 2-110 and who holds a valid permit issued under § 2-114 may use the title under which he or she is generally known in his or her country, followed by the name of the country from which the foreign accountant received his or her certificate, license, or degree. (1973 Ed., § 2-946; Mar. 16, 1978, D.C. Law 2-59, § 7, 24 DCR 5975.)

**Section references.** — This section is referred to in § 2-105.

**Legislative history of Law 2-59.** — See note to § 2-101.

## § 2-107. Certified public accountants — Requirements.

(a) The Board is authorized to issue a certificate of "certified public accountant" to any applicant who furnishes to the Board satisfactory proof that he or she meets the following qualifications:

(1) Is at least 18 years of age;

(2) Is of good moral character;

(3) Is a resident of the District or has been regularly employed in the District for the immediate 6 months prior to the final date for accepting applications for the written examinations, or, in the case of an employee of a certified public accountant or a firm of certified public accountants registered to practice in the District, has been a bona fide resident of a foreign country for a period of not less than 18 months preceding the date of filing an application and is not qualified to be examined and to receive a certificate of certified public accountant in the state of last residence solely because of the aforesaid residence abroad;

(4) Has passed a written examination in accounting and auditing and such related subjects as the Board shall determine to be appropriate;

(5)(A) Holds a baccalaureate degree with a concentration in accounting conferred by a college or university recognized by the Board or holds that which the Board determines to be substantially the equivalent thereof; or

(B) Holds a baccalaureate degree acceptable to the Board supplemented with the equivalent of an accounting concentration including related courses in other areas of business administration; and

(6) Has paid all required fees.

(b) Waiver of the educational requirements specified in subsection (a)(5) of this section shall be permitted only under the following circumstances:

(1) The Board shall waive all educational requirements specified in subsection (a)(5) of this section for an applicant who is registered as a public accountant under § 2-109;

(2) The Board may waive the educational requirements specified in subsection (a)(5) of this section for an applicant who, on the effective date of this chapter, was employed as a staff accountant in the District by anyone practicing public accounting; provided, that the applicant can provide proof satisfactory to the Board of 4 years of experience acceptable to the Board in the practice of public accounting or equivalent work experience; or

(3) The Board may waive the educational requirements in subsection (a)(5) of this section for an applicant who, as a result of a written examination given or authorized by the Board to test the applicant's educational qualifications, demonstrates to the Board's satisfaction that he or she is as well equipped educationally as if he or she met the applicable educational requirements specified above.

(c) The examination described in subsection (a)(4) of this section shall be held at least once a year and at such other times as the Board may prescribe. The Board may make use of all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service which the Board deems appropriate.

(d) An applicant who provides proof satisfactory to the Board that he or she has a reasonable expectation of meeting the educational requirements within 90 days following the examination prescribed in subsection (a)(4) of this section shall be eligible to take said examination; provided, that the applicant has met all the other requirements of subsection (a) of this section and; provided, further, that no certificate shall be issued nor shall credit for the examination or any part of it be given, unless the requirement is in fact completed within the 90 days or within such time as the Board in its discretion may allow upon application.

(e) The Board may, by regulation, provide for granting credit to an applicant for the satisfactory completion of a written examination given by the licensing authority of any state in any one or more of the subjects included in the examination required pursuant to subsection (a)(4) of this section; provided, that any examination approved as a basis for any credit shall, in the judgment of the Board, be at least as thorough as the most recent examination given by the Board at the time of the granting of the credit.

(f) The Board may prescribe by regulation the terms and conditions under which an applicant who passes the examination in one or more of the subjects indicated in the examination prescribed under subsection (a)(4) of this section may be reexamined. It may also provide by regulation for a reasonable waiting period before the applicant's reexamination in a subject he or she has failed. Subject to the foregoing and such other regulations as the Board may adopt governing reexaminations, an applicant shall be entitled to any number of reexaminations under subsection (a)(4) of this section.

(g) In general the applicable educational requirements under subsection (a)(5) of this section shall be in effect on the date of the examination by which the applicant successfully completes his or her examination under subsection (a)(4) of this section. However the Board may provide by regulation for exceptions to the general rule in order to prevent what it determines to be undue hardship to applicants resulting from changes in the educational requirements in subsection (a)(5) of this section.

(h) Any person who has received from the Board a certificate as a certified public accountant and who holds a permit issued under § 2-114 which is in full force and effect shall be styled and known as a "certified public accountant" and may also use the abbreviation "CPA."



(i) Nothing in this chapter shall be construed to prohibit any person holding a certificate issued pursuant to this section, but not holding a valid permit issued under § 2-114, from assuming or using the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a certified public accountant; provided, that:

(1) The Board has not revoked, suspended, or refused to renew a permit previously issued to the person for any cause specified in § 2-115;

(2) Such assumption or use is not incident to the practice of public accountancy; and

(3) Such assumption or use is not in conjunction with or incident to any opinion or certificate within the purview of subsections (f) and (g) of § 2-105.

(j) Persons who, on the effective date of this chapter, hold a certified public accountant certificate or an endorsement of a certificate theretofore issued under the laws of the District shall not be required to obtain additional certificates under this chapter, but shall otherwise be subject to the provisions of this chapter and such certificate theretofore issued shall, for all purposes, be considered a certificate issued under and subject to the provisions of this chapter.

(k) The Board may, in its discretion, waive the examination under subsection (a)(4) of this section and may issue an endorsement of a certificate as a "certified public accountant" to an applicant who:

(1) Is a certified public accountant of a state or is the holder of a certificate of certified public accountant, or the equivalent thereof, issued in any foreign country; provided, that the requirements for such certificate are, in the opinion of the Board, equivalent to those herein required;

(2) Meets the qualifications specified in subsections (a)(1), (a)(2), (a)(5), and (a)(6) of this section; provided, that an applicant who is a certified public accountant in good standing of a state shall not be required to meet more extensive educational and experience qualifications than those required by the District at the time such applicant was granted his or her certificate of certified public accountant by such state; and

(3) Declares his or her intention under oath for opening and maintaining or being employed in an office in the District for the purpose of engaging in the full-time public practice of his or her profession as a certified public accountant of the District.

(l) The holder of an endorsement of a certificate of certified public accountant, in full force and effect, shall have all of the privileges of the holder of a certificate of certified public accountant issued under this section and shall be subject to the provisions of this chapter.

(m) The Board shall maintain a record of certificates, endorsements and permits to practice issued under the authority of this chapter. (1973 Ed., § 2-947; Mar. 16, 1978, D.C. Law 2-59, § 8, 24 DCR 5975.)

**Section references.** — This section is referred to in §§ 2-103, 2-105, 2-108, 2-113, 2-114, 2-115 and 47-1814.1a.

**Legislative history of Law 2-59.** — See note to § 2-101.

**§ 2-108. Same — Temporary certificate and permit.**

If an applicant for a certificate and permit as a certified public accountant meets all of the requirements for the certificate and permit (other than the requirement of § 2-107 (a) (3) that the applicant be a resident of the District or have a place of business therein or, if an employee, be regularly employed therein) the Board may, in its discretion, issue to the applicant a temporary certificate and permit as a certified public accountant which shall be effective only until the Board notifies the applicant that his or her application has been either approved or rejected. In no event shall such a temporary certificate or permit be in effect for more than 6 months after the date of its issuance. (1973 Ed., § 2-948; Mar. 16, 1978, D.C. Law 2-59, § 9, 24 DCR 5975.)

**Legislative history of Law 2-59.** — See note to § 2-101.

**§ 2-109. Registration — Public accountants.**

(a) Any person who: (1) Holds himself or herself out to the public as a public accountant and is engaged as a principal (as distinguished from an employee) within the District on the effective date of this chapter in the full-time practice of public accounting; (2) is a resident of the District or has a place of business therein; and (3) is of good moral character may, within 90 calendar days after the effective date of this chapter, register with the Board as a public accountant.

(b) The Board, by regulations, may provide for the registration of persons under subsection (a) of this section who, prior to the effective date of this chapter, were in practice but due to extenuating circumstances were not in practice on the effective date of this chapter.

(c) Any individual registered under subsection (b) of this section who holds a permit issued under § 2-114 shall be styled and known as a "public accountant."

(d) Nothing in this chapter shall be construed to prohibit any person who has registered pursuant to this section, but who does not hold a valid permit issued under § 2-114, from assuming or using the title or designation "public accountant," or the abbreviation "PA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a public accountant; provided, that:

(1) The Board has not revoked, suspended, or refused to renew a permit previously issued to the person for any cause specified in § 2-115;

(2) The assumption or use of the title or designation is not incident to the practice of public accountancy; and

(3) Such assumption or use is not in conjunction with or incident to any opinion or certificate within the purview of subsections (f) and (g) of § 2-105. (1973 Ed., § 2-949; Mar. 16, 1978, D.C. Law 2-59, § 10, 24 DCR 5975.)

**Section references.** — This section is referred to in §§ 2-103, 2-105, 2-107, 2-114, 2-115 and 47-1814.1a.

**Legislative history of Law 2-59.** — See note to § 2-101.

## § 2-110. Same — Foreign accountants.

The Board may, in its discretion, permit the registration of any person of good moral character who is the holder in good standing of a certificate, license or degree in a foreign country which constitutes a recognized qualification for the practice of public accounting in that country. A person so registered shall use only the title under which he or she is generally known in his or her own country, followed by the name of the country from which the certificate, license or degree was received. (1973 Ed., § 2-950; Mar. 16, 1978, D.C. Law 2-59, § 11, 24 DCR 5975.)

**Section references.** — This section is referred to in §§ 2-106, 2-113 and 2-114.

**Legislative history of Law 2-59.** — See note to § 2-101.

## § 2-111. Same — Partnerships and corporations composed of certified public accountants.

(a) A partnership engaged in the District in the practice of public accounting may register with the Board as a partnership of certified public accountants if it meets the following requirements:

(1) At least 1 general partner thereof must be a certified public accountant of the District in good standing;

(2) Each partner thereof must be a certified public accountant of a state in good standing; and

(3) At least 1 partner or the resident manager in charge of an office of the partnership in the District and each partner thereof personally engaged within the District in the practice of public accounting as a member thereof must be a certified public accountant of the District in good standing.

(b) A corporation organized for the practice of public accounting may register with the Board as a corporation of certified public accountants if it is duly registered under Chapter 6 of Title 29 and is in compliance with such regulations as may be prescribed for such corporations.

(c) A partnership or corporation which is registered pursuant to this section and which holds a permit issued under § 2-114 may use the words "certified public accountants" or the abbreviation "CPA" in connection with its partnership or corporate name. Notification shall be given the Board within 1 month after the admission or withdrawal of a partner or shareholder in practice in the District from any partnership or corporation so registered. (1973 Ed., § 2-951; Mar. 16, 1978, D.C. Law 2-59, § 12, 24 DCR 5975.)

**Section references.** — This section is referred to in §§ 2-105 and 2-114.

**Legislative history of Law 2-59.** — See note to § 2-101.



**§ 2-112. Same — Partnerships and corporations composed of public accountants.**

(a) A partnership engaged in the District in the practice of public accounting may register with the Board as a partnership of public accountants if it meets the following requirements:

(1) At least 1 general partner thereof is a certified public accountant or a public accountant of the District in good standing;

(2) Each partner thereof personally engaged within the District in the practice of public accounting as a member of the partnership must be a certified public accountant or a public accountant of the District in good standing; and

(3) At least 1 partner or the resident manager in charge of an office of a firm in the District must be a certified public accountant or a public accountant of the District in good standing.

(b) A corporation organized for the practice of public accounting may be formed under Chapter 6 of Title 29 and may register with the Board as a corporation of public accountants. The corporation must be in compliance with such other regulations pertaining to corporations practicing public accounting in the District as the Board may prescribe.

(c) The application for registration must be made upon the affidavit of a general partner or shareholder who holds a permit to practice in the District as a certified public accountant or as a public accountant. The Board shall in each case determine whether the applicant is eligible for registration. A partnership or corporation which is so registered and which holds a permit issued under § 2-114 may use the words "public accountants" in connection with its partnership or corporate name. Notification shall be given the Board within 1 month after the admission to or withdrawal of a partner or shareholder from any partnership or corporation so registered. (1973 Ed., § 2-952; Mar. 16, 1978, D.C. Law 2-59, § 13, 24 DCR 5975.)

**Section references.** — This section is referred to in §§ 2-105 and 2-114.

**Legislative history of Law 2-59.** — See note to § 2-101.

**§ 2-113. Same — Offices.**

(a) Each office established or maintained in the District for the practice of public accounting by a certified public accountant, or partnership or corporation of certified public accountants; or by a public accountant or a partnership or corporation of public accountants; or by one registered under § 2-110 shall be registered annually with the Board. Each such office shall be under the direct supervision of at least 1 partner or the resident manager who may be either a principal, a shareholder, or a staff employee holding a valid permit under § 2-114; provided, that the title or designation "certified public accountant" or the abbreviation "CPA" shall not be used in connection with such office unless the partner or resident manager is the holder of a certificate as a certified public accountant issued under § 2-107 and a permit issued under

§ 2-114, both of which are in full force and effect. Such partner or resident manager may serve in such capacity at 1 office only.

(b) The Board shall by regulation prescribe the procedure to be followed in effecting such registrations. (1973 Ed., § 2-953; Mar. 16, 1978, D.C. Law 2-59, § 14, 24 DCR 5975.)

**Section references.** — This section is referred to in §§ 2-105 and 2-114.

**Legislative history of Law 2-59.** — See note to § 2-101.

## § 2-114. Annual permits to practice.

(a) Permits to engage in the practice of public accounting in the District shall be issued by the Board to holders of the certificates of certified public accountant issued under § 2-107 who have furnished evidence satisfactory to the Board of compliance with the requirements of subsection (b) of this section and to persons, partnerships, and corporations registered under §§ 2-109, 2-110, 2-111, and 2-112; provided, that all offices in the District of the certificate holder or registrant are maintained and registered as required under § 2-113 and; provided, further, that holders of certificates issued pursuant to § 2-107 may be required as a condition of the issuance of a permit pursuant to this section to demonstrate, in accordance with the regulations issued by the Board, experience of not fewer than 2 years in either:

(1) Auditing books and accounts of other persons in accordance with generally accepted auditing standards;

(2) Reviewing financial statements and supporting material covering the financial conditions and operations of private business entities to determine the reliability and fairness of the financial reporting and compliance with generally accepted accounting principles;

(3) Such other experience including auditing and accounting experience in a governmental agency as the Board in its discretion regards as qualifying experience under the facts and circumstances of individual cases; or

(4) Any combination of the foregoing.

(b) All permits to practice shall expire on the day of the year set by the Mayor and may be renewed annually for a period of 1 year by certificate holders and registrants in good standing. The failure of a certificate holder or registrant to apply for an annual permit to practice within 3 years from either the expiration date of the permit to practice last obtained or renewed or the date upon which the certificate holder or registrant was granted his or her certificate or registration (if no permit was ever issued to him or her) shall deprive the person of the right to renew or have issued such permit, unless the Board in its discretion determines the failure to have been due to reasonable cause or excusable neglect. A permit to practice shall be issued, however, if the applicant satisfied the requirements for the initial issuance of the permit.

(c) After the Board promulgates regulations establishing continuing education requirements, as authorized pursuant to § 2-103 (i) (3), applications for renewal shall be accompanied by such evidence of compliance therewith as the Board shall prescribe. The failure of an applicant for the renewal of an annual permit to furnish such evidence shall constitute cause under § 2-115

for the revocation, suspension or refusal to renew the permit in a proceeding under § 2-117, unless the Board in its discretion determines that the failure was a result of a reasonable cause or an excusable neglect. The Board in its discretion may renew an annual permit to practice, despite the failure to furnish evidence of the satisfaction of the requirements of continuing education, upon the condition that the applicant will follow a satisfactory program or schedule of continuing education. In issuing rules, regulations, and individual orders with respect to the requirements of continuing education, the Board in its discretion may, among other things, use and rely upon guidelines and pronouncements of recognized educational and professional associations; prescribe for content, duration, and organization of courses; take into account the accessibility to applicants of such continuing education as the Board may require and any impediments to the interstate practice of public accountancy which may result from differences in such requirements in the states; and provide for the relaxation or suspension of such requirements in instances of individual hardship. (1973 Ed., § 2-954; Mar. 16, 1978, D.C. Law 2-59, § 15, 24 DCR 5975.)

**Section references.** — This section is referred to in §§ 2-103, 2-105, 2-106, 2-107, 2-109, 2-111, 2-112, 2-113, 2-115 and 2-116.

**Legislative history of Law 2-59.** — See note to § 2-101.

## § 2-115. Revocation or suspension of certificate or registration or permit.

After a notice and hearing as provided for in § 2-117, the Board may:

- (1) Revoke or suspend, for a period not to exceed 3 years, any certificate issued under § 2-107 or any registration granted under § 2-109;
  - (2) Revoke, suspend, or refuse to renew any permit issued under § 2-114;
- or
- (3) Censure the holder of any such permit for any one or any combination of the following causes:
    - (A) Fraud or deceit in obtaining a certificate, registration permit or other benefit under this chapter;
    - (B) Dishonesty, fraud, or gross negligence in the practice of public accounting;
    - (C) The violation of any of the provisions of § 2-105;
    - (D) The violation of a rule of professional conduct promulgated by the Board under the authority granted by this chapter;
    - (E) The conviction of a felony under the laws of any state or of the United States;
    - (F) The conviction of any crime, an element of which is dishonesty or fraud, under the laws of any state or of the United States;
    - (G) The cancellation, revocation, suspension, or refusal to renew the holder's authority to practice as a certified public accountant or a public accountant by any state for any cause other than the failure to pay an annual registration fee in such state;



(H) The suspension or revocation of the holder's right to practice before any state or federal agency;

(I) With regard to the annual permit to practice, the failure of:

(i) A certificate holder or registrant to obtain an annual permit under § 2-114 within the time specified in § 2-114 (b); or

(ii) A holder of a valid permit to furnish evidence of satisfaction of the requirements of continuing education as required by the Board under § 2-114 or to meet any conditions with respect to continuing education which the Board may have ordered concerning the certificate holder under that section; or

(J) Conduct discreditable to the public accounting profession. (1973 Ed., § 2-955; Mar. 16, 1978, D.C. Law 2-59, § 16, 24 DCR 5975.)

**Section references.** — This section is referred to in §§ 2-107, 2-109, 2-114, 2-116 and 2-120. **Legislative history of Law 2-59.** — See note to § 2-101.

## **§ 2-116. Revocation or suspension of partnership's or corporation's registration or permit.**

(a) After a notice and hearing as provided in § 2-117, the Board shall revoke the registration and permit to practice of a partnership or corporation if at any time it does not meet all the qualifications prescribed by the section of this chapter under which it qualified for registration.

(b) After a notice and hearing as provided in § 2-117, the Board may:

(1) Revoke or suspend the registration of a partnership or corporation;

(2) Revoke, suspend, or refuse to renew the permit of a partnership or corporation to practice under § 2-114; or

(3) Censure the holder of any such permit for any of the causes enumerated in § 2-115 or for any of the following additional causes:

(A) The revocation or suspension of the certificate of registration or the revocation, suspension, or refusal to renew the permit to practice of any partner or shareholder; or

(B) The cancellation, revocation, suspension, or refusal to renew the authority of the partnership or corporation, or any partner or shareholder thereof, to practice public accounting in any state for any cause other than the failure to pay an annual registration fee in such state. (1973 Ed., § 2-956; Mar. 16, 1978, D.C. Law 2-59, § 17, 24 DCR 5975.)

**Legislative history of Law 2-59.** — See note to § 2-101.

## **§ 2-117. Hearings before the Board; periodic review.**

(a) The Board shall adopt and prescribe administrative procedures governing the denial, suspension, or revocation of any certificate, permit, endorsement, or registration. Such procedures shall be consistent with the contested case provisions of § 1-1509, including reasonable notice and an opportunity for a hearing.

(b) The Board is authorized and empowered in connection with any hearing pursuant to its authority under this section to administer oaths and to subpoena any necessary witnesses, books, papers, records, and documents. (1973 Ed., § 2-957; Mar. 16, 1978, D.C. Law 2-59, § 18, 24 DCR 5975.)

**Section references.** — This section is referred to in §§ 2-114, 2-115 and 2-116.

**Legislative history of Law 2-59.** — See note to § 2-101.

## **§ 2-118. Reinstatement.**

(a) Upon an application in writing and after a hearing pursuant to a notice, the Board may:

(1) Issue a new certificate to a certified public accountant whose certificate has been revoked;

(2) Permit the reregistration of anyone whose registration has been revoked; or

(3) Reissue or modify the suspension of any permit to practice public accounting which has been revoked or suspended.

(b) The burden shall be upon the applicant to show that he or she qualifies for reinstatement. (1973 Ed., § 2-958; Mar. 16, 1978, D.C. Law 2-59, § 19, 24 DCR 5975.)

**Legislative history of Law 2-59.** — See note to § 2-101.

## **§ 2-119. Use of title or designation — Injunction against unlawful acts.**

Whenever, in the judgment of the Board, any person has engaged or is about to engage in acts or practices which constitute or will constitute a violation of § 2-105, the Board may make application to the appropriate court for an order enjoining such acts or practices and upon a showing by the Board that such person has engaged or is about to engage in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court. (1973 Ed., § 2-959; Mar. 16, 1978, D.C. Law 2-59, § 20, 24 DCR 5975.)

**Legislative history of Law 2-59.** — See note to § 2-101.

## **§ 2-120. Same — Penalty.**

Any person who violates any provision of § 2-105 shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500 or to imprisonment for not more than 1 year, or to both such fine and imprisonment. Whenever the Board has reason to believe that any person is liable to punishment under this section, it may certify the facts to the Corporation Counsel of the District of Columbia who may, in his or her discretion, cause appropriate proceedings to be brought. Civil fines, penalties, and fees

may be imposed as alternative sanctions for any infraction of the provisions of § 2-105 or § 2-115, or any rules or regulations issued under the authority of those sections, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (1973 Ed., § 2-960; Mar. 16, 1978, D.C. Law 2-59, § 21, 24 DCR 5975; Oct. 5, 1985, D.C. Law 6-42, § 417, 32 DCR 4450.)

**Legislative history of Law 2-59.** — See note to § 2-101.

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Commit-

tee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

## § 2-121. Same — Single act evidence of practice.

The display or uttering by a person of a card, sign, advertisement, or other printed, engraved, or written instrument or device bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof, or "public accountant" or any abbreviation thereof, shall be prima facie evidence in any action brought under this chapter that the person whose name is so displayed caused or procured the display or uttering of such card, sign, advertisement, or other printed, engraved, or written instrument or device and that such person is holding himself or herself out to be a certified public accountant or a public accountant. In any such case, evidence of the commission of a single act prohibited by this chapter shall be sufficient to justify an injunction or a conviction without evidence of a general course of conduct. (1973 Ed., § 2-961; Mar. 16, 1978, D.C. Law 2-59, § 22, 24 DCR 5975.)

**Legislative history of Law 2-59.** — See note to § 2-101.

## § 2-122. Ownership of an accountant's working papers.

All statements, records, schedules, working papers, and memoranda made by a certified public accountant or public accountant incidental to or in the course of professional service to a client shall be and remain the property of such accountant, in the absence of an express agreement between the accountant and the client to the contrary. No such statement, record, schedule, working paper, or memorandum shall be sold, transferred or bequeathed without the consent of the client or the client's personal representative or assignee to anyone other than one or more surviving partners of the accountant or to the accountant's corporation, (1973 Ed., § 2-962; Mar. 16, 1978, D.C. Law 2-59, § 23, 24 DCR 5975.)

**Legislative history of Law 2-59.** — See note to § 2-101.



**§ 2-123. Severability.**

If any provision of this chapter or the application thereof to anyone or to any circumstances is held invalid, the remainder of the chapter and the application of the provision to others or other circumstances shall not be affected thereby. (1973 Ed., § 2-963; Mar. 16, 1978, D.C. Law 2-59, § 24, 24 DCR 5975.)

**Legislative history of Law 2-59.** — See note to § 2-101.

**§ 2-124. Effect of repeal of prior Act.**

The District of Columbia Certified Public Accountancy Act of 1966 is hereby repealed; provided, that nothing contained in this chapter shall invalidate or affect any action taken under any law in effect prior to the effective date of this chapter or invalidate or affect any proceeding instituted under such law before the effective date of this chapter; provided, further, that the Board of Accountancy established pursuant to the District of Columbia Certified Public Accountancy Act of 1966 shall continue to exercise the powers, functions and duties vested in it under such Act until 5 members of the Board are duly appointed and officially take office. (1973 Ed., § 2-964; Mar. 16, 1978, D.C. Law 2-59, § 25, 24 DCR 5975.)

**Legislative history of Law 2-59.** — See note to § 2-101.

**References in text.** — The former "District of Columbia Certified Public Accountancy Act

of 1966," referred to twice in this section, was the Act of September 16, 1966, 80 Stat. 785, Pub. L. 89-578.

**§ 2-125. Effective date.**

This chapter shall apply on and after June 15, 1978. (1973 Ed., § 2-965; Mar. 16, 1978, D.C. Law 2-59, § 26, 24 DCR 5975.)

**Legislative history of Law 2-59.** — See note to § 2-101.

## CHAPTER 2. ARCHITECTS.

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*Subchapter I. Architects' Registration.*

§§ 2-201 to 2-231. Board of Examiners and Registrars of Architects — Created; appointment; composition; qualifications; term of office; vacancies; oath of office; election of officers; rules and regulations; meetings; quorum; voting; duties of Secretary; enforcement of chapter; expenses; roster of architects; annual report; duties of Treasurer; members of Board — Compensation; reimbursement for expenses; practice of architecture limited; "practice of architecture" defined; "architect" defined; holder of certificate may use title of architect; registration as architect limited to individuals; collective title permitted; exceptions to application of chapter; "building" defined; drawings and specifications to be signed; registration without examination; qualifications of applicants; examination of applicants; registration in another juris-

**diction in lieu of examination; practical examination; fees; examination papers and other evidence of qualification to be filed with Board; record; renewal of certificate; persons exempted from chapter; revocation of certificate — Notice; causes; procedure; appeal; attendance of witnesses and production of documents; penalty for illegal practice or misuse of title; construction; short title.**

Repealed. Mar. 13, 1992, D.C. Law 9-184, § 604, 39 DCR 8208.

**Cross references.** — As to rules and regulations, see § 1-319. As to Mayor's authority to fix fees, see § 1-346. As to Mayor's authority to increase or decrease fees, see § 1-347. As to honorariums to various board members and commissioners, see § 1-348. As to compensation for members of boards and commissions, see § 1-612.8. As to administrative procedure, see Chapter 15 of Title 1. As to judicial review,

see § 11-722. As to refund of fees where license is refused, see § 47-1318. As to Council's authority to regulate, modify, or eliminate license requirements, see § 47-2842. As to Council's authority to promulgate regulations, see § 47-2844.

**Legislative history of Law 9-184.** — See note to § 2-241.

## *Subchapter II. Architect Licensure and Regulation.*

### **§ 2-241. Definitions.**

For the purposes of this subchapter, the term:

(1) "Architect" means an individual who is engaged in the practice of architecture as defined by this subchapter.

(2) "Board" means the Board of Architecture established by § 2-251.

(3) "Day" means a calendar day.

(4) "Direct supervision" means personal oversight by an individual who has control over and detailed professional knowledge of the work prepared.

(5) "Practice of architecture" means rendering or offering to render services in connection with the design and construction, enlargement, or alteration of a structure or group of structures that have as their principal purpose human occupancy or habitation, as well as the space within and surrounding these structures. These services include planning and providing studies, designs, drawings, specifications, and other technical submissions, and the administration of construction contracts. The practice of architecture does not include the practice of engineering, as defined in Chapter 23 of this title, although an architect may perform engineering work that is incidental to the practice of architecture.

(6) "State" means any state, commonwealth, territory, or possession of the United States.

(7) "Technical submissions" means studies, designs, drawings, specifications, and any other technical documentation prepared in the course of the practice of architecture. (Mar. 13, 1992, D.C. Law 9-184, § 101, 39 DCR 8208.)



**Legislative history of Law 9-184.** — Law 9-184, the "Architect Licensure and Regulation Act of 1992," was introduced in Council and assigned Bill No. 9-189, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on July 7, 1992, and October 6, 1992, respectively. Signed by the Mayor on No-

vember 2, 1992, it was assigned Act No. 9-304 and transmitted to both Houses of Congress for its review. D.C. Law 9-184 became effective on March 13, 1993.

**Delegation of Authority under D.C. Law 9-184, the Architect Licensure and Regulation Act of 1992.** — See Mayor's Order 93-117, August 11, 1993.

## § 2-242. Architects registered or licensed under prior law.

(a) Except as otherwise provided in this subchapter, an architect who holds a current registration issued pursuant to subchapter I of this chapter shall be considered for all purposes to be licensed under this subchapter for the duration of the term for which the registration or license was issued and may renew that license in accordance with the renewal provisions of this subchapter.

(b) For the purpose of this section, an architect who holds a current registration issued pursuant to subchapter I of this chapter shall be deemed to meet the training and experience requirements of this subchapter. (Mar. 13, 1992, D.C. Law 9-184, § 102, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

**References in text.** — "Subchapter I of this

chapter," referred to in (a) and (b), is 43 Stat. 714, repealed by § 604 of D.C. Law 9-184.

## § 2-243. Responsibilities of the Mayor.

(a) The Board of Architecture established by this subchapter shall be under the administrative control of the Mayor.

(b) The Mayor shall be responsible for:

(1) Providing the Board with administrative support, including staff and facilities, sufficient to enable it to perform its responsibilities; and

(2) Promulgating all rules necessary to implement the provisions of this subchapter, including rules establishing administrative procedures for the Board, rules establishing fees for all services related to the licensure of architects and the regulation of architecture under this subchapter, and, upon the recommendation of the Board, rules establishing requirements for licensure and minimum standards for the practice of architecture. (Mar. 13, 1992, D.C. Law 9-184, § 103, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

## § 2-251. Board of Architecture; establishment; appointment.

(a) There is established a Board of Architecture to consist of 5 members appointed by the Mayor.

(b) Of the members of the Board, 4 shall be architects and 1 shall be a consumer member who is not an architect and who shall represent the public interest.

(c) Of the members initially appointed, 2 shall be appointed to a term of 3 years, 2 shall be appointed to a term of 2 years, and 1 shall be appointed to a term of 1 year.

(d) The terms of the members 1st appointed shall begin on the date that a majority of the 1st members are sworn in, which shall become the anniversary date for all subsequent appointments.

(e) The Mayor shall designate a chairperson from among the members of the Board. (Mar. 13, 1992, D.C. Law 9-184, § 201, 39 DCR 8208.)

**Section references.** — This section is referred to in §§ 2-241 and 2-253.

**Legislative history of Law 9-184.** — See note to § 2-241.

## § 2-252. Qualifications of members.

(a) The architect members of the Board, at the time of their appointments and while they are members of the Board, shall:

- (1) Be licensed and in good standing as architects in the District;
- (2) Have had at least 5 years of experience in the practice of architecture in the District immediately preceding their appointments; and
- (3) Be residents of the District.

(b) Of the architect members of the Board, at least 3 shall be graduates of a degree program accredited by an accrediting institution, as prescribed by rule.

(c) The consumer member of the Board, at the time of appointment and while a member of the Board, shall:

- (1) Be a resident of the District;
- (2) Be at least 18 years of age;
- (3) Not be an architect;
- (4) Not be associated with or have any interest in any person providing architectural services, education, or training; and
- (5) Not have a household member who is an architect or who is associated with or has any interest in any person providing architectural services, education, or training.

(d) For purposes of subsection (c)(5) of this section, the term "household member" means a relative by blood or marriage, a ward, or any individual who shares the residence of a consumer member. (Mar. 13, 1992, D.C. Law 9-184, § 202, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

**§ 2-253. Terms of members; filling of vacancies.**

(a) Except as provided in § 2-251(c), the members of the Board shall be appointed for a term of 3 years.

(b) At the end of a term, a member shall continue to serve until a successor is appointed and sworn into office.

(c) A successor appointed to fill the unexpired term of a former member shall serve until the expiration of the former member's full term.

(d) No member of the Board shall be appointed to more than 2 consecutive full terms. (Mar. 13, 1992, D.C. Law 9-184, § 203, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

**§ 2-254. Removal.**

(a) The Mayor may remove a member of the Board for incompetence, misconduct, or neglect of duty after due notice and an opportunity for a hearing.

(b) The Mayor shall remove a member of the Board for failure to maintain the qualifications required by this subchapter.

(c) The failure of a member of the Board to attend at least  $\frac{1}{2}$  of the regular, scheduled meetings of the Board within a 12-month period shall constitute neglect of duty within the meaning of subsection (a) of this section. (Mar. 13, 1992, D.C. Law 9-184, § 204, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

**§ 2-255. Meetings; officers; quorum.**

(a) The Board shall hold at least 1 regular meeting every 3 months and may hold special meetings as deemed necessary by the Board.

(b) The Board shall determine the time of its meetings at a place to be determined by the Mayor and shall publish notice in the District of Columbia Register of regular meetings at least 1 week in advance.

(c) A majority of the members of the Board shall constitute a quorum. (Mar. 13, 1992, D.C. Law 9-184, § 205, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

**§ 2-256. Compensation.**

Members of the Board shall be entitled to receive compensation in accordance with § 1-612.8, and shall be reimbursed for reasonable travel and other expenses incurred in the performance of their duties from funds designated for that purpose. (Mar. 13, 1992, D.C. Law 9-184, § 206, 39 DCR 8208.)



## **§ 2-257**

### **DISTRICT BOARDS AND COMMISSIONS**

**Legislative history of Law 9-184.** — See note to § 2-241.

## **§ 2-257. General powers and duties.**

(a) The Board shall:

(1) Administer and enforce the provisions of this subchapter and rules promulgated pursuant to this subchapter;

(2) Recommend programs, policies, standards, and rules necessary to carry out the purposes of this subchapter;

(3) Recommend minimum standards for the practice of architecture;

(4) Receive applications, evaluate qualifications, and determine eligibility of applicants for licensure;

(5) Issue licenses to qualified applicants;

(6) Receive and review complaints of violations of this subchapter or rules promulgated pursuant to this subchapter;

(7) Request the Mayor, on the Board's own initiative or on the basis of a complaint, to conduct investigations of allegations of violations of this subchapter;

(8) Issue subpoenas, conduct hearings, administer oaths, examine witnesses, and render decisions relating to the denial, suspension, or revocation of licensure, or any disciplinary action; and

(9) Maintain records of its proceedings.

(b) The consumer member of the Board may exercise a vote in all matters before the Board except those relating to examination content.

(c) A member of the Board shall not take part in an action on the member's own application for licensure, license renewal, or on any other matter related to that member's practice of architecture. (Mar. 13, 1992, D.C. Law 9-184, § 207, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

## **§ 2-258. Annual report.**

The Board shall, before January 1 of each year, submit a report to the Mayor and the Council of the District of Columbia of its official acts during the preceding fiscal year. (Mar. 13, 1992, D.C. Law 9-184, § 208, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

## **§ 2-261. License required.**

(a) Only an individual shall be eligible to be licensed as an architect.

(b) Except as provided in § 2-262, no unlicensed person shall engage, directly or indirectly, in the practice of architecture in the District or use the title "architect," "registered architect," "licensed architect," "architectural designer," or display or use any words, letters, figures, titles, signs, cards, adver-

tisements, or any other symbols or devices indicating, or tending to indicate, that the person is an architect or is practicing architecture.

(c) No person shall aid or abet any person who is not licensed pursuant to this subchapter, or who is not engaged in an activity excepted by § 2-262, in the practice of architecture. (Mar. 13, 1992, D.C. Law 9-184, § 301, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

## § 2-262. Exceptions.

Nothing in this subchapter shall be construed to prohibit:

(1) Any activity that would constitute the practice of architecture when performed in connection with any alteration, renovation, or remodeling of an existing structure, if the alteration, renovation, or remodeling does not affect the structural or other safety features of the structure and if the work contemplated by the design does not require the issuance of a building permit under the Building Code (Title 12 DCMR);

(2) The preparation of any detailed or shop drawings required to be furnished by a contractor, or the administration of construction contracts by persons customarily engaged in contracting work;

(3) The preparation of technical submissions or the administration of construction contracts under the direct supervision of an architect licensed in the District by employees of a person lawfully engaged in the practice of architecture;

(4) The practice of architecture by officers and employees of the federal government while acting in the scope of employment;

(5) A partnership or corporation that is in compliance with § 2-281 from performing or holding itself out as able to perform any of the services involved in the practice of architecture; or

(6) An architect who holds a license or certificate of registration in good standing to practice architecture in a state from agreeing to perform or representing that he or she is able to perform any of the services involved in the practice of architecture, provided that the architect shall not perform any of the services involved in the practice of architecture until licensed under this subchapter. (Mar. 13, 1992, D.C. Law 9-184, § 302, 39 DCR 8208.)

**Section references.** — This section is referred to in § 2-261.

**Legislative history of Law 9-184.** — See note to § 2-241.

## § 2-263. General qualifications of applicants.

(a) Except as provided in subsection (b) of this section, an applicant for a license shall establish to the satisfaction of the Board that the applicant:

(1) Is of good moral character;

(2) Is a graduate of a degree program in architecture accredited by an accrediting institution prescribed by rule, or has completed an education pro-

gram in architecture prescribed by rule as the equivalent of an accredited professional architectural degree program;

(3) Has passed an examination on the practice of architecture prescribed by rule; and

(4) Meets any other requirements established by rule to ensure that the applicant has had the proper training, experience, and qualifications to practice architecture.

(b) The Board shall waive the education requirement of subsection (a)(2) of this section for an applicant who:

(1) Demonstrates that the applicant has 3 years of practical experience as an architect that:

(A) Meets the requirements of subchapter I of this chapter;

(B) Is completed within 2 years of March 13, 1993; and

(C) Took place in a jurisdiction that, at the time the practical experience was completed, did not require applicants for a license to practice architecture to have completed an education program in architecture; and

(2) Applies for licensure within 3 years of March 13, 1993. (Mar. 13, 1992, D.C. Law 9-184, § 303, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See chapter," referred to in (b)(1)(A), is 43 Stat. 714, repealed by § 604 of D.C. Law 9-184.

**References in text.** — "Subchapter I of this

## **§ 2-264. Application for license.**

An applicant for a license shall submit an application to the Board on Board-approved forms and pay the applicable fees prescribed by rule. (Mar. 13, 1992, D.C. Law 9-184, § 304, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

## **§ 2-265. Examination requirements.**

(a) An applicant who otherwise qualifies for licensure is entitled to be examined as provided by this subchapter.

(b) The Board shall notify each qualified applicant of the time and place of examination. (Mar. 13, 1992, D.C. Law 9-184, § 305, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

## **§ 2-266. License by reciprocity.**

The Board may issue a license by reciprocity to an applicant who is licensed, registered, or certified and in good standing under the laws of a state with standards that, in the opinion of the Board, are substantially equivalent to the requirements of this subchapter, and which state admits architects licensed by the District in like manner. (Mar. 13, 1992, D.C. Law 9-184, § 306, 39 DCR 8208.)



**Legislative history of Law 9-184.** — See note to § 2-241.

### § 2-267. Issuance of license.

(a) The Board shall issue a license to an applicant who meets the requirements of this subchapter and rules issued pursuant to this subchapter.

(b) A license shall be effective upon issuance. (Mar. 13, 1992, D.C. Law 9-184, § 307, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

### § 2-268. Scope of license.

(a) A person licensed under this subchapter is authorized to practice architecture in the District only while the license is effective.

(b) A person who fails to renew a license shall be considered to be unlicensed and subject to the penalties set forth in this subchapter and other applicable laws of the District if the person continues the practice of architecture. (Mar. 13, 1992, D.C. Law 9-184, § 308, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

### § 2-269. Term and renewal of license.

(a) A license issued or renewed under this subchapter shall expire on the date prescribed by rule.

(b) The Mayor may establish by rule continuing education requirements as a condition for renewal of a license.

(c) At least 30 days before a license expires, the Board shall send to the licensee, by first class mail to the last known address of the licensee, a renewal notice that states:

(1) The date on which the license expires;

(2) The date by which the renewal application must be received by the Board; and

(3) The amount of the renewal fee.

(d) Before a license expires, the licensee may renew the license if the licensee:

(1) Submits a timely application to the Board;

(2) Is otherwise entitled to be licensed;

(3) Pays the renewal fee prescribed by rule; and

(4) Submits to the Board satisfactory evidence of compliance with any continuing education requirements that may be established for license renewal.

(e) The Board shall renew the license of each licensee who meets the requirements of this subchapter. (Mar. 13, 1992, D.C. Law 9-184, § 309, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

**§ 2-270. Reinstatement of expired license.**

(a) Except as provided in subsection (b) of this section, the Board shall reinstate the license of an architect who:

- (1) Complies with current requirements for license renewal, including any continuing education requirements;
- (2) Is otherwise qualified for licensure; and
- (3) Pays a reinstatement fee prescribed by rule.

(b) The Board shall not reinstate the license of an architect who fails to apply for reinstatement of a license within 5 years after the license expires. An architect who fails to submit a timely application for reinstatement may become licensed only by meeting the requirements for obtaining an initial license.

(c) For individuals holding certificates of registration to practice architecture issued pursuant to subchapter I of this chapter, which certificates expired prior to March 13, 1993, the 5-year period set forth in this section shall commence on March 13, 1993. (Mar. 13, 1992, D.C. Law 9-184, § 310, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See chapter," referred to in (c), is 43 Stat. 714, repealed by § 604 of D.C. Law 9-184.

**References in text.** — "Subchapter I of this

**§ 2-271. Display of license; change of address.**

(a) A licensee shall display his or her license conspicuously in the principal place of business or employment of the licensee.

(b) A licensee shall notify the Board of any change of address of the licensee's place of residence or place of business or employment within 30 days after the change of address. (Mar. 13, 1992, D.C. Law 9-184, § 311, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

**§ 2-272. Architect's seal required.**

(a) A licensee shall have a seal of a design prescribed by rule.

(b) All technical submissions prepared by a licensee or under the direct supervision of a licensee shall be signed by the licensee and stamped with the impression of the licensee's seal.

(c) No licensee shall sign or seal a technical submission or portion thereof unless it was prepared by the licensee or under the direct supervision of the licensee. (Mar. 13, 1992, D.C. Law 9-184, § 312, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

### § 2-273. Denials.

The Board, subject to an opportunity for a hearing under § 2-275, may deny the application of any person who has failed to submit satisfactory evidence to the Board that the person meets the qualifications for licensure under this subchapter and rules promulgated pursuant to this subchapter, or who has committed any of the acts listed in § 2-274(a). (Mar. 13, 1992, D.C. Law 9-184, § 313, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

### § 2-274. Disciplinary actions.

(a) The Board, subject to an opportunity for a hearing under § 2-275, may take one or more of the disciplinary actions provided for in subsection (b) of this section against any applicant or licensee who:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license;
- (2) Fraudulently or deceptively uses a license;
- (3) Fraudulently or deceptively engages in the practice of architecture;
- (4) Incompetently or negligently engages in the practice of architecture;
- (5) Is disciplined by any licensing or disciplinary authority or convicted or disciplined by any court for conduct that would be grounds for disciplinary action under this subchapter;

(6) Has been convicted by any court of law of, or pleaded guilty or nolo contendere to, a crime that bears directly on the fitness of the person to practice architecture;

- (7) Fails to pay a civil fine imposed by the Board, the Mayor, or any court;
- (8) Violates an order of the Board or the Mayor; or
- (9) Violates any provision of this subchapter or rules issued pursuant to this subchapter.

(b) Upon a finding by a preponderance of the evidence that a person committed an act set forth in subsection (a) of this section, the Board may take one or more of the following disciplinary actions:

- (1) Deny, suspend, or revoke a license;
- (2) Censure or reprimand an applicant or licensee;
- (3) Limit a license;
- (4) Impose a civil fine not to exceed \$5,000 for each violation by an applicant or licensee;
- (5) Require a course of remediation that may include retraining and reexamination;
- (6) Require a period of probation; or
- (7) Issue a cease and desist order pursuant to § 2-277.

(c) Nothing in this subchapter shall preclude prosecution for a criminal violation of this subchapter notwithstanding that the same violation has been



or is the subject of 1 or more of the administrative or civil actions provided by this subchapter. Criminal prosecution may proceed simultaneously with, or subsequent to, an administrative or civil action. (Mar. 13, 1992, D.C. Law 9-184, § 314, 39 DCR 8208.)

**Section references.** — This section is referred to in § 2-273.

**Legislative history of Law 9-184.** — See note to § 2-241.

## § 2-275. Hearings.

(a) Before the Board takes adverse action against a person, it shall give the person an opportunity for a hearing, except in the case of a denial of a license based solely on a person's failure to pass a required examination.

(b) The Board may request a person to attend a settlement conference prior to holding a hearing under this section, and may enter into negotiated settlement agreements and consent decrees to carry out its functions.

(c) A notice of intended action or hearing shall be sent by certified mail to the last known address of the person who requested the hearing at least 20 days before the hearing.

(d) A person who has requested a hearing may be represented at the hearing by counsel.

(e)(1) The Board may administer oaths and require, by subpoena, the attendance and testimony of witnesses and the production of books, papers, and other evidence in connection with any proceeding under this section.

(2) The Board shall require the attendance of witnesses and the production of books, papers, and other evidence reasonably requested by a person who has requested a hearing.

(3) In case of contumacy by or refusal to obey a subpoena issued by the Board, the Board may petition the Superior Court of the District of Columbia for an order compelling compliance. Refusal to obey such an order shall constitute contempt of court.

(f) If a person fails to request or appear at a hearing, the Board may issue an order without conducting a hearing.

(g) The Board shall issue a final order in writing within 90 days after conducting a hearing.

(h) The Board may delegate its authority to conduct hearings under this subchapter to a panel of 2 Board members. (Mar. 13, 1992, D.C. Law 9-184, § 315, 39 DCR 8208.)

**Section references.** — This section is referred to in §§ 2-273, 2-274 and 2-277.

**Legislative history of Law 9-184.** — See note to § 2-241.

## § 2-276. Summary action.

(a) If the Mayor determines that the conduct of a licensee presents an imminent danger to the health and safety of the residents of the District, the Mayor may summarily suspend or restrict the license without a hearing.

(b) The Mayor, at the time of a summary suspension or restriction of a license, shall provide the licensee with written notice stating the action that is

being taken, the basis for the summary action, and the right of the licensee to request a hearing.

(c) A licensee shall have the right to request a hearing within 15 days after service of notice of a summary suspension or restriction of the license. The Mayor shall hold a hearing within 72 hours of receipt of a timely request, and shall issue a decision within 72 hours after the hearing.

(d) Every order adverse to a licensee shall be in writing and shall be accompanied by findings of fact and conclusions of law. Findings of fact shall be supported by substantial evidence. The Mayor shall provide a copy of the order and accompanying findings of fact and conclusions of law to the licensee or the licensee's attorney of record. (Mar. 13, 1992, D.C. Law 9-184, § 316, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

## § 2-277. Cease and desist orders.

(a) When the Board or the Mayor, after investigation but prior to a hearing, has cause to believe that any person is violating any provision of this subchapter and the violation has caused or may cause immediate and irreparable harm to the public, the Board or the Mayor may issue an order requiring the person to cease and desist immediately from the violation. The order shall be served by certified mail or delivered in person.

(b)(1) A person may, within 20 days of the service of such an order, submit a written request to the Board or the Mayor to hold a hearing on the alleged violation.

(2) Upon receipt of a timely request, the Board or the Mayor shall conduct a hearing and issue a final order pursuant to § 2-275.

(c)(1) A person may, within 15 days of the service of an order, submit a written request to the Board or the Mayor for an expedited hearing on an alleged violation, in which case the person shall waive the right to the 20-day notice required by § 2-275.

(2) Upon receipt of a timely request for an expedited hearing, the Board or the Mayor shall conduct a hearing within 10 days of the date of receiving the request and shall deliver to the person, at the person's last known address, a written notice of hearing at least 5 days before the hearing date.

(3) The Board or the Mayor shall issue a final order within 30 days after an expedited hearing.

(d) If a person fails to request or appear for a hearing, the cease and desist order of the Board or the Mayor shall become final.

(e) If the Board or the Mayor determines that a person is not in violation of this subchapter, the Board or the Mayor shall rescind the cease and desist order.

(f) If a person fails to comply with a cease and desist order, the Board or the Mayor may petition the Superior Court of the District of Columbia to issue an order compelling compliance, or may take any other action authorized by this subchapter. (Mar. 13, 1992, D.C. Law 9-184, § 317, 39 DCR 8208.)

**Section references.** — This section is referred to in § 2-274.

**Legislative history of Law 9-184.** — See note to § 2-241.

### **§ 2-278. Voluntary surrender of license.**

(a) A licensee who is the subject of an investigation or a disciplinary action may voluntarily surrender his or her license by delivering to the Board an affidavit stating that the licensee desires to surrender the license, and that the action is freely and voluntarily taken and not the result of duress or coercion.

(b) Upon receipt of a required affidavit, the Board shall enter an order revoking or suspending the license.

(c) The voluntary surrender of a license shall not preclude the imposition of civil or criminal penalties against the licensee. (Mar. 13, 1992, D.C. Law 9-184, § 318, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

### **§ 2-279. Judicial and administrative review.**

Any person aggrieved by a final decision of the Board or the Mayor may appeal the decision pursuant to § 1-1510. (Mar. 13, 1992, D.C. Law 9-184, § 319, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

### **§ 2-280. Reinstatement of a suspended or revoked license.**

(a) Except as provided in subsection (b) of this section, the Board shall reinstate a license that has been suspended or revoked if the person applying for reinstatement:

(1) Has complied with the terms and conditions of the order of suspension or revocation;

(2) Complies with current requirements for license reinstatement, including any continuing education requirements;

(3) Is otherwise qualified for licensure; and

(4) Pays a reinstatement fee prescribed by rule.

(b) If an order of suspension or revocation was based on the conviction of a crime that bears directly on the fitness of a licensee to practice and the conviction subsequently is overturned at any stage of an appeal or other post conviction proceeding, the Board shall reinstate the license when the conviction is overturned and the person has provided the Board with a certified copy of the court order overturning the conviction. (Mar. 13, 1992, D.C. Law 9-184, § 320, 39 DCR 8208.)



**Legislative history of Law 9-184.** — See note to § 2-241.

## **§ 2-281. Partnerships and corporations established for the practice of architecture.**

(a) Only an individual shall be eligible to be licensed as an architect under this subchapter. A partnership, corporation, or other entity is not eligible to be licensed as an architect.

(b) A partnership or corporation may perform and hold itself out as able to perform any of the services involved in the practice of architecture provided that:

(1) Direct supervision of the work prepared on behalf of the partnership or corporation shall be provided by an architect who is licensed to practice architecture under this subchapter;

(2) In the case of a partnership, at least  $\frac{2}{3}$  of the general partners are licensed, registered, or certified as architects in the United States; and

(3) In the case of a corporation, the corporation complies with Chapter 6 of Title 29.

(c) A partnership or corporation subject to this section shall furnish the Board with information as is prescribed by rule. (Mar. 13, 1992, D.C. Law 9-184, § 401, 39 DCR 8208.)

**Section references.** — This section is referred to in § 2-262.

**Legislative history of Law 9-184.** — See note to § 2-241.

## **§ 2-291. Penalties; alternative sanctions.**

(a) Any person who violates any provision of this subchapter, or rules issued pursuant to this subchapter, shall, upon conviction, be guilty of a misdemeanor, and shall be subject to imprisonment for not more than 1 year or a fine not to exceed \$5,000, or both. Each act of unlawful practice shall constitute a separate violation.

(b) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, pursuant to Chapter 27 of Title 6. (Mar. 13, 1992, D.C. Law 9-184, § 501, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

## **§ 2-292. Prosecution.**

Criminal prosecutions for violations of this subchapter or rules issued pursuant to this subchapter shall be conducted in the name of the District of Columbia in the Superior Court of the District of Columbia by the Corporation Counsel. (Mar. 13, 1992, D.C. Law 9-184, § 502, 39 DCR 8208.)

## **§ 2-293**

### **DISTRICT BOARDS AND COMMISSIONS**

**Legislative history of Law 9-184.** — See note to § 2-241.

## **§ 2-293. Injunctions.**

(a) The Corporation Counsel may bring an action in the Superior Court of the District of Columbia in the name of the District of Columbia to enjoin the unlawful practice of architecture or other action that is grounds for the imposition of civil or criminal penalties or disciplinary action under this subchapter.

(b) In a proceeding under this section, it shall not be necessary to prove that any person is injured by the action alleged.

(c) Remedies under this section are in addition to criminal prosecution or disciplinary action of the Board. (Mar. 13, 1992, D.C. Law 9-184, § 503, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

## **§ 2-294. Civil actions.**

(a) An applicant or licensee shall obtain and file with the Board a copy of any documents filed or orders entered in any civil or criminal action relating to the applicant's or licensee's practice of architecture.

(b) In any civil or criminal action relating to the practice of architecture by a partnership or corporation, a licensed architect who is a partner of the partnership or an officer or director of the corporation shall file with the Board a copy of any documents filed or orders entered in the action. (Mar. 13, 1992, D.C. Law 9-184, § 504, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

## **§ 2-296. Transfer of personnel, records, property, and funds.**

The personnel, records, property, and unexpended balances of appropriations and other funds that relate primarily to the functions of the Board of Examiners and Registrars of Architects are transferred to the Board of Architecture established by this subchapter. (Mar. 13, 1992, D.C. Law 9-184, § 601, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

## **§ 2-297. Board of Examiners and Registrars of Architects abolished.**

Members of the Board of Examiners and Registrars of Architects abolished by this subchapter shall serve as members of the Board of Architecture established by this subchapter until their successors are appointed. (Mar. 13, 1992, D.C. Law 9-184, § 602, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

## **§ 2-298. Pending actions and proceedings; existing orders.**

(a) No suit, action, or other judicial proceeding lawfully commenced by or against any member, officer, or employee of the Board of Examiners and Registrars of Architects in the official capacity of the officer or employee shall abate by reason of the taking effect of this subchapter, but the court or agency, unless it determines that survival of the suit, action, or other proceeding is not necessary for purposes of settlement of the question involved, shall allow the suit, action, or other proceeding to be maintained, with substitutions as to parties as are appropriate.

(b) No disciplinary action against a person or other administrative action or proceeding lawfully commenced shall abate solely by reason of the taking effect of any provision of this subchapter, but the action or proceeding shall be continued with substitutions as to parties and officers or agencies as are appropriate.

(c) Except as otherwise provided in this subchapter, all orders issued by the Board of Examiners and Registrars of Architects abolished by this subchapter, or rules issued pursuant to subchapter I of this chapter, shall continue in effect and shall apply to the successor Board of Architecture until the orders or rules are repealed or superseded.

(d) Any individual who, on March 13, 1993, has an application for registration pending pursuant to, and qualifies under, subchapter I of this chapter, shall be granted a license. Thereafter, any individual seeking licensure shall meet the qualifications required by this subchapter. (Mar. 13, 1992, D.C. Law 9-184, § 603, 39 DCR 8208.)

**Legislative history of Law 9-184.** — See note to § 2-241.

**References in text.** — “Subchapter I of this

chapter,” referred to in (c) and (d), is 43 Stat. 714, repealed by § 604 of D.C. Law 9-184.



# CHAPTER 3. ARMORY BOARD.

## Subchapter I. General Provisions.

- Sec.  
 2-301. Declaration of policy.  
 2-302. Armory Board established; composition; term of office; alternates; compensation; election of Chairman.  
 2-303. Control of and jurisdiction over Armory; maintenance and repair.  
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## Subchapter I. General Provisions.

### § 2-301. Declaration of policy.

It is hereby declared to be the policy of the Congress that the District of Columbia National Guard Armory shall be maintained and operated primarily to provide facilities for the quartering and training of the District of Columbia National Guard, and, secondarily, to provide suitable facilities for major athletic events, conventions, concerts, and such other activities as may be in the interest of the District of Columbia including, but not limited to, the provision of emergency protection when the temperature falls below 26 degrees Fahrenheit, and that such Armory shall be operated as nearly as practicable on a self-supporting basis. (June 4, 1948, 62 Stat. 339, ch. 418, § 1; 1973 Ed., § 2-1701; Mar. 16, 1989, D.C. Law 7-204, § 3, 36 DCR 454.)

**Legislative history of Law 7-204.** — Law 7-204, the "Frigid Temperature Protection Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-401, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 29, 1988 and December 13,

1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-275 and transmitted to both Houses of Congress for its review.

**References in text.** — The National Guard, referred to in this section, was substituted for

the Militia pursuant to the Act of February 18, 1909, 35 Stat. 636.

**Construction of Law 7-204.** — Section 7 of D.C. Law 7-204 provided that nothing in the act shall be construed to reduce the rights recognized by subchapter I of Chapter 6 of Title 3.

**Delegation of Authority Pursuant to D.C. Law 7-204, the "Frigid Temperature Protection Amendment Act of 1988".** — See Mayor's Order 89-123, June 2, 1989.

**Appropriations authorized.** — Public Law 103-127, 107 Stat. 1343, 1344, the District of Columbia Appropriations Act, 1994 provided for the Starplex Fund, an amount necessary for the expenses incurred by the Armory Board in the exercise of its powers granted by this subchapter and subchapter II of this chapter of which \$1,742,000 shall be transferred to the general fund for the District of Columbia Courts and \$35,000 shall be transferred to the Office of Cable Television: *Provided*, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by § 47-301(b).

**This section is subordinate to general**

**federal statute** (32 U.S.C. § 102) declaring that the National Guard is an integral part of the first line defense of the United States and that it must be maintained and assured at all times. *Jones v. District of Columbia Armory Bd.*, 438 F.2d 138 (D.C. Cir. 1970).

**Refusal of Board to rent Armory did not deny free speech** and assembly or equal protection of the law. *Jones v. District of Columbia Armory Bd.*, 438 F.2d 138 (D.C. Cir. 1970).

**Board not required to rent Armory when National Guard is mobilized.** *Jones v. District of Columbia Armory Bd.*, 438 F.2d 138 (D.C. Cir. 1970).

**Refusal to rent Armory held reasonable.** — The decision of the Board in refusing to rent the Armory to an organization on the ground that that organization would be at the vortex of any civil disturbance that might arise necessitating mobilization of the National Guard is reasonable. *Jones v. District of Columbia Armory Bd.*, 438 F.2d 138 (D.C. Cir. 1970).

**Cited in** *Thate v. District of Columbia Armory Bd.*, 804 F. Supp. 373 (D.D.C. 1992).

## § 2-302. Armory Board established; composition; term of office; alternates; compensation; election of Chairman. [Charter Provision].

There is established an Armory Board, to be composed of the Commanding General of the District of Columbia National Guard, and 2 other members appointed by the Mayor of the District of Columbia by and with the advice and consent of the Council of the District of Columbia. The members appointed by the Mayor shall each serve for a term of 4 years beginning on the date such member qualifies. Each member of the Armory Board is authorized to appoint, and in his discretion to withdraw the appointment of, an alternate and to delegate to such alternate authority to act in his place and stead in respect of the powers granted by this subchapter. The members of said Board and the alternates shall serve without additional compensation. Said Armory Board shall elect a Chairman from among its members. (June 4, 1948, 62 Stat. 339, ch. 418, § 2; 1973 Ed., § 2-1702; Dec. 24, 1973, 87 Stat. 811, Pub. L. 93-198, title IV, § 494.)

**Charter provision.** — The first and second sentences of this section of the D.C. Code are § 494 of the District Charter as enacted by Title IV of the District of Columbia Self-Government and Governmental Reorganization Act, December 24, 1973, 87 Stat. 820, Pub. L. 93-198. The District of Columbia Self-Government and Governmental Reorganization Act is set out in its entirety in Volume 1.

**Section references.** — This section is referred to in §§ 1-299.2, 1-604.6, 1-1462 and 2-321.

**References in text.** — The National Guard,

referred to in the first sentence of this section, was substituted for the Militia pursuant to the Act of February 18, 1909, 35 Stat. 636.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners



under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and

the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**Definitions applicable.** — The definitions in § 1-202 apply to terms appearing in the 1973 amendment to this section.

## § 2-303. Control of and jurisdiction over Armory; maintenance and repair.

For the purposes of this subchapter, said Armory Board is vested with the control of and jurisdiction over the District of Columbia National Guard Armory. For the purposes of maintenance and repair the Armory shall be under the control and jurisdiction of the Mayor of the District of Columbia. (June 4, 1948, 62 Stat. 339, ch. 418, § 3; 1973 Ed., § 2-1703.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and

Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-304. Motor vehicle parking areas.

Upon the request of the Armory Board the Secretary of the Interior shall provide for the use of said Board, under such arrangements for improvement, lighting, and maintenance as may be agreed upon between the Secretary of the Interior and said Board, such areas of land adjacent to the Armory and under the control of the Secretary of the Interior as said Board deems adequate for motor vehicle parking purposes. (June 4, 1948, 62 Stat. 339, ch. 418, § 4; 1973 Ed., § 2-1704.)

**Section references.** — This section is referred to in § 2-306.

## § 2-305. Use of Armory by National Guard.

The Armory Board shall set aside for the exclusive use of the District of Columbia National Guard such parts of the headquarters and regimental buildings and basement of the drill hall, and such of the storage rooms contiguous to the drill hall as shown upon drawing A-3, first-floor plan, approved by the Council of the District of Columbia April 19, 1940, as said Armory Board may from time to time find are necessary for the use of the National Guard. The parts of the Armory so set aside for the use of the National Guard shall be



under the control and jurisdiction of the Commanding General of the National Guard for all purposes except maintenance and repair of the Armory. The drill hall and those parts of the Armory not set aside for the exclusive use of the National Guard shall be available to the National Guard under schedules for joint use made by the Armory Board so as to carry out the purposes and intent of this subchapter. (June 4, 1948, 62 Stat. 339, ch. 418, § 5; 1973 Ed., § 2-1705.)

**Section references.** — This section is referred to in §§ 2-306 and 2-341.

**References in text.** — The National Guard, referred to throughout this section, was substituted for the Militia pursuant to the Act of February 18, 1909, 35 Stat. 636.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this

section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-306. Authorization of Board to carry out secondary purposes of subchapter.

In order to carry out the secondary purposes of this subchapter the Armory Board is hereby authorized, without regard to any other provisions of law:

(1) To determine all questions concerning the use of said Armory for the secondary purposes of this subchapter;

(2) To enter into contracts and agreements with District of Columbia and federal departments, bureaus, establishments, and offices and the provisions of 31 U.S.C. § 1535 (a) to (d) are hereby made applicable to such contracts;

(3) To acquire by purchase or lease equipment, appliances, facilities, and property of any kind necessary or desirable to carry out the secondary purposes of this subchapter, and to sell or dispose of any such property so acquired by said Board when in its judgment it shall be advantageous to do so; provided, that no contract for more than \$3,000 shall be entered into for this purpose without competitive bidding;

(4) To erect structures or installations in all of such parts of the Armory as are not required exclusively for military purposes, and to make such structural and other changes in any such structures as it may deem necessary or desirable for carrying out the secondary purposes of this subchapter; provided, that nothing in this subchapter shall authorize or permit the erection of any structure which in the opinion of the Commanding General of the District of Columbia National Guard will lessen the availability of the Armory for military purposes;

(5) To prepare, maintain, light, and operate motor vehicle parking lots on such land as is provided for that purpose by the Secretary of the Interior under the terms of § 2-304;

(6) To operate or contract for the operation of such concessions, including the checking of clothing and the sale of nonalcoholic beverages and food, as the said Board may deem appropriate to the purposes for which the Armory may be leased; provided, that the said Board may at its discretion, and with the approval of the Commanding General of the District of Columbia National Guard, grant the concession for nonalcoholic beverages and food to the canteen of the District of Columbia National Guard, whenever in the opinion of said Board such action shall be for the public interest;

(7) To furnish such services to renters, lessees, and other occupants of the Armory as in its judgment are necessary or suitable for carrying out the secondary purposes of this subchapter;

(8) To rent or lease from time to time, for any of the secondary purposes of this subchapter, all or any part or parts of the Armory not set aside for the exclusive use of the District of Columbia National Guard in compliance with § 2-305, including any or all structures, equipment, or facilities of the Armory, at such rental values as the Armory Board shall determine to be fair with respect to the interests of the District of Columbia, and for such periods of time as the Armory Board may determine, subject to cancellation when the public interest requires; provided, that every lease or rental agreement which includes therein any period of time not covered by the schedules furnished under the provisions of § 2-305 shall be binding and effective only when the Commanding General of the District of Columbia National Guard has endorsed his approval thereon in writing;

(9) To carry public-liability insurance protecting the interests of the District of Columbia, the Mayor of the District of Columbia, the District of Columbia National Guard, the Commanding General of the District of Columbia National Guard, the Armory Board, and the members, officers, and employees thereof; and to require tenants or lessees of the Armory to carry public-liability insurance protecting the interests of such tenants or lessees;

(10) To incur obligations not in excess of \$200,000 at any one time in furtherance of the secondary purposes of this subchapter, and not in excess of \$50,000 above the unobligated excess in the Starplex Fund; and

(11) To accept the gratis services of such persons as may volunteer to aid in the conduct of its activities. (June 4, 1948, 62 Stat. 340, ch. 418, § 6; 1973 Ed., § 2-1706; Apr. 7, 1977, D.C. Law 1-113, § 2(1), 23 DCR 8742; June 14, 1980, D.C. Law 3-70, § 7(o)(1), 27 DCR 1776.)

**Section references.** — This section is referred to in § 2-309.

**Legislative history of Law 1-113.** — Law 1-113, the "Armory Board Amendment Act of 1976," was introduced in Council and assigned Bill No. 1-241, which was referred to the Committee on Public Safety. The Bill was adopted on first and second readings on November 23, 1976, and December 7, 1976, respectively. Signed by the Mayor on January 11, 1977, it was assigned Act No. 1-203 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 3-70.** — Law

3-70, the "District of Columbia Fund Accounting Act of 1980," was introduced in Council and assigned Bill No. 3-197, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on March 18, 1980 and April 1, 1980, respectively. Signed by the Mayor on April 25, 1980, it was assigned Act No. 3-176 and transmitted to both Houses of Congress for its review.

**References in text.** — "31 U.S.C. § 1535(a) to (d)," referred to in paragraph (2) of this section, was substituted for "§ 686 of Title 31,



United States Code" on authority of § 4(b) of the Act of September 13, 1982, Pub. L. 97-258.

The National Guard, referred to in paragraphs (4), (6), (8), and (9) of this section, was substituted for the Militia pursuant to the Act of February 18, 1909, 35 Stat. 636.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all

of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-307. Starplex Fund.

There is established a Starplex Fund into which shall be deposited all receipts derived from the exercise by the Armory Board of the powers granted by this subchapter and subchapter II of this chapter. The Starplex Fund shall be an enterprise fund as defined in § 47-373 and shall be used for all expenses incurred by the Armory Board in the exercise of the powers granted by this chapter and subchapter II of this chapter. As soon as practicable after the close of each fiscal year, after provision has been made for payment of all lawful obligations then incurred, all sums in excess of \$400,000 in said Starplex Fund shall be transferred to the General Fund of the District of Columbia. Expenditures from such Fund may be made only upon vouchers which have been certified by said Armory Board and which have been approved before payment by the Auditor of the District of Columbia, and shall be disbursed in the same manner as other District of Columbia funds are disbursed; provided, that the Disbursing Officer of the District of Columbia is authorized to advance to the Armory Board, upon requisitions previously approved by the Accounting Officer of the District of Columbia, sums of money not to exceed \$15,000 at any one time to be used by the Armory Board for its office and sundry expenses and for change-making purposes in connection with the secondary purposes of this subchapter, and in connection with the operation of the Stadium and related motor vehicle parking areas pursuant to §§ 2-321 to 2-330; provided further, that an amount not to exceed \$50,000, which may be adjusted annually by the Mayor, by rule, to reflect annual changes in the cost of living in any fiscal year shall be available for promotional expenses in the furtherance of the secondary purposes of this subchapter, and of the purposes of §§ 2-321 to 2-330, and the certificate of the Armory Board shall be sufficient voucher for such expenditure. There is hereby authorized to be appropriated annually such sum as may be required to supply any deficiency in the Starplex Fund. (June 4, 1948, 62 Stat. 341, ch. 418, § 8; Aug. 4, 1955, 69 Stat. 498, ch. 562, § 1; July 28, 1958, 72 Stat. 423, Pub. L. 85-561, § 2(a); Sept. 23, 1959, 73 Stat. 702, Pub. L. 86-378, § 2; 1973 Ed., § 2-1708; Apr. 7, 1977, D.C. Law 1-113, § 2(2), 23 DCR 8742; June 14, 1980, D.C. Law 3-70, § 7(o)(3)-(6), 27 DCR 1776; Oct. 19, 1989, D.C. Law 8-44, § 2, 36 DCR 5777.)



**Section references.** — This section is referred to in §§ 2-308 and 2-325.

**Legislative history of Law 1-113.** — See note to § 2-306.

**Legislative history of Law 3-70.** — See note to § 2-306.

**Legislative history of Law 8-44.** — Law 8-44, the "Armory Board Promotional Expenses Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-206, which was referred to the Committee on Public Services. The Bill was adopted on first and second readings on June 27, 1989 and July 11, 1989, respectively. Signed by the Mayor on August 1, 1989, it was assigned Act No. 8-77 and transmitted to both Houses of Congress for its review.

**Transfer of functions.** — The Office of the Auditor and the Disbursing Office were abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 3 of the Board of Commissioners, dated August 28, 1952, established under the direction and control of the Board of Commissioners a Department of General Administration headed by a Director. The Order transferred to the Director of General Administration all of the functions of the abolished Offices. Reorganization Order No. 20 established the Finance Office in the Department of General Administration. Included in the Finance Office were an Office of the Assessor, the Office of the Collector of Taxes, the Disbursing Office, and the Accounting Office

headed by an Accounting Officer. The function of approving vouchers and requisitions described in this section was delegated to the Accounting Officer by that Order. Reorganization Order No. 20 was replaced by Organization Order No. 121. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Reorganization Order No. 3 and Organization Order No. 121 were revoked by Organization Order No. 3 of the Commissioner of the District of Columbia, dated December 13, 1967. Organization Order No. 3 established within the newly created Department of General Administration, a Finance Office and prescribed the functions thereof. These functions were subsequently transferred to the Director of the Department of Finance and Revenue by Commissioner's Order No. 69-96, dated March 7, 1969. Functions pertaining to centralized accounting (including approving vouchers and requisitions) as set forth in that Order were transferred to the Director of the Office of Budget and Financial Management by Organization No. 30, dated April 5, 1972. The Office of Budget and Financial Management was replaced by Organization Order 50, dated December 31, 1974, which Order established the Office of Budget and Management Systems. The Office of Budget and Management Systems was replaced by Mayor's Order 79-5, dated January 2, 1979, which Order established the Office of Budget and Resource Development.

## § 2-308. Transfer of assets held in various funds.

All assets held in the Armory Board Working Capital Fund, the Canteen Fund of the District of Columbia National Guard, and the Stadium Operating Fund shall be transferred to the Starplex Fund established by § 2-307; provided, that the assets in the Canteen Fund and any funds derived from the operation of a canteen fund and any funds derived from the operation of a canteen in the Armory for the use and benefit of the District of Columbia National Guard shall inure to the benefit of the District of Columbia National Guard. (June 14, 1980, D.C. Law 3-70, § 7(o)(7), 27 DCR 1776.)

**Legislative history of Law 3-70.** — See note to § 2-306.

## § 2-309. Manager; employment of additional personnel.

The Armory Board is authorized to employ and fix the compensation and term of a manager and such personnel as may be necessary in connection with the operation of the Armory for the secondary purposes of this subchapter without regard to the provisions of the civil service laws. Under the direction of the Board and with written authorization signed by the members thereof,

said manager may exercise such of the powers vested in the Board by § 2-306 as the Board shall determine. (June 4, 1948, 62 Stat. 342, ch. 418, § 9; Aug. 19, 1964, 78 Stat. 494, Pub. L. 88-448, title IV, § 402(a)(27); 1973 Ed., § 2-1709.)

**Section references.** — This section is referred to in § 1-612.16.

**References in text.** — The "civil service

laws," referred to at the end of the first sentence of this section, are set forth in Title 5 of the United States Code.

## **§ 2-310. Financial statement; report of activities and business; recommendations.**

The Armory Board shall file with the Congress in July of each year a financial statement certified as to accuracy by the Auditor of the District of Columbia, a report of the activities and business at the Armory during the preceding fiscal year, and recommendations to the Congress as to the future control and use of the Armory. (June 4, 1948, 62 Stat. 342, ch. 418, § 10; 1973 Ed., § 2-1710; Nov. 15, 1977, 91 Stat. 1383, Pub. L. 95-185, § 2.)

**Office of Auditor abolished.** — The Office of the Auditor of the District of Columbia was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 3 of the Board of Commissioners, dated August 28, 1952, established, under the direction and control of the Board of Commissioners, a Department of General Administration headed by a Director. The Order transferred to the Director of General Administration all of the functions of the Office of Auditor. Reorganization Order No. 19 established the Internal Audit Office headed by an Internal Audit Officer in the Department of General Administration. The function of certifying as to the accuracy of the yearly financial statement of the Armory Board was transferred to the Internal Audit Office. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Reorganization Order Nos. 3 and 19 were revoked by Organization Order No. 3 of the Commissioner of the District

of Columbia, dated December 13, 1967. Organization Order No. 3 established within the newly created Department of General Administration an Internal Audit Office and prescribed the functions thereof. These functions were subsequently transferred to the Director of the Department of Finance and Revenue by Commissioner's Order No. 69-96, dated March 7, 1969. Part IVB of Organization Order No. 3 and that portion of paragraph 4 of Commissioner's Order No. 69-96 pertaining to a transfer of audit functions to the Department of Finance and Revenue were revoked by Organization Order No. 33, dated July 14, 1972. The latter Order established an Office of Municipal Audit and Inspection and prescribed the functions thereof. Organization Order No. 50, dated December 31, 1974, established the Office of Budget and Management Systems, and transferred to that Office the functions of the Municipal Audit Office. The Office of Budget and Management Systems was replaced by Mayor's Order 79-5, dated January 2, 1979, which Order established the Office of Budget and Resource Development.

## *Subchapter II. Robert F. Kennedy Memorial Stadium.*

## **§ 2-321. Purpose; authorization of Board to construct, maintain, and operate Stadium; plans.**

In order to provide the people of the District of Columbia with a Stadium suitable for holding athletic events and other activities and events of a nature requiring such a facility, the Armory Board (hereinafter referred to as the "Board"), created by § 2-302, is hereby authorized to construct, maintain, and



operate a Stadium with a seating capacity of not to exceed 50,000, on a site in the District of Columbia determined in accordance with provisions of § 2-322. In the event the Board exercises the authority vested in it by this section, such Stadium shall be constructed substantially in accordance with the plans for such Stadium contained in the Praeger-Kavanagh-Waterbury survey entitled "Engineering and Economic Study, District of Columbia Stadium" dated March 31, 1958. The Board is authorized to provide for the construction of such Stadium by such means as it determines will most effectively carry out this subchapter (including, but not limited to, a negotiated contract). (Sept. 7, 1957, 71 Stat. 619, Pub. L. 85-300, § 2; July 28, 1958, 72 Stat. 421, Pub. L. 85-561, § 1(1, 2); Sept. 23, 1959, 73 Stat. 702, Pub. L. 86-378, § 1(1); 1973 Ed., § 2-1720.)

**Cross references.** — As to authorization to increase seating capacity, see 40 U.S.C. § 607.

**Section references.** — This section is referred to in § 2-307.

**Appropriations authorized.** — Public Law 103-127, 107 Stat. 1343, 1344, the District of Columbia Appropriations Act, 1994, provided for the Starplex Fund, an amount necessary for the expenses incurred by the Armory Board in the exercise of its powers granted by subchapter I of this chapter and this subchapter of which \$1,742,000 shall be transferred to the general fund for the District of Columbia Courts and \$35,000 shall be transferred to the Office of Cable Television: *Provided*, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by § 47-301(b).

**Contractor's claim based on construction of Stadium is not vindicable in Court of Claims** where not only is the United States not directly a party to the underlying contract but, more importantly, appropriated public funds are not involved since the Stadium was financed by issuance of bonds, notwithstanding

that the bonds were guaranteed by the United States or that the issuer, the District of Columbia Armory Board, was created by Congress or that all right, title, and interest in the Stadium would ultimately rest in the United States. *McCloskey & Co. v. United States*, 530 F.2d 374 (D.C. Cir. 1976).

**Whether Stadium is a public forum for first amendment purposes.** — This section, by itself, cannot answer the question of what the government's purposes are when it undertakes to sponsor athletic events, and whether RFK Stadium is a "public forum" for first amendment purposes. *Stewart v. District of Columbia Armory Bd.*, 863 F.2d 1013 (D.C. Cir. 1988).

Plaintiffs alleged sufficient facts bearing on one or more of the objective indicia of intent to designate RFK Stadium as a public forum to survive dismissal for failure to state a claim with respect to alleged first amendment violations by the armory board. *Stewart v. District of Columbia Armory Bd.*, 863 F.2d 1013 (D.C. Cir. 1988).

## § 2-322. Authorization of Secretary of Interior.

The Secretary of the Interior is authorized and directed to acquire by gift, purchase, condemnation, or otherwise, all real property within the boundaries of the East Capitol Street site, as established in the 1st paragraph under the heading "(2) East Capitol Street Site" contained in the National Capital Planning Commission report entitled "Preliminary Report on Sites for National Memorial Stadium" dated November 8, 1956, and thereafter, acting under authority of the Act entitled "An Act to establish a National Park Service, and for other purposes," approved August 25, 1916, as amended (16 U.S.C. § 1 et seq.), the Secretary of the Interior shall enter into a contract with the Board for the construction, maintenance, and operation of the Stadium (including the operation and maintenance of motor vehicle parking areas) on such East Capitol Street site, except that such contract may be for a term of not more than 30 years. The Secretary of the Interior is authorized and directed to



construct and prepare in areas A, C, D, and E only, on such site, as such areas are indicated on National Capital Parks Map No. 1.7-146, motor vehicle parking areas, including driveways, walks, lighting, and landscaping, at a total cost not to exceed \$2,660,000. (Sept. 7, 1957, 71 Stat. 619, Pub. L. 85-300, § 3; July 28, 1958, 72 Stat. 421, Pub. L. 85-561, § 1(3); Sept. 23, 1959, 73 Stat. 702, Pub. L. 86-378, § 1(2, 3); 1973 Ed., § 2-1721.)

**Section references.** — This section is referred to in §§ 2-307, 2-321 and 2-324.

### **§ 2-323. Bonds; issuance; rate of interest; registration; redemption; refinancing; sale; exemption from taxation.**

(a) The Board is hereby authorized to provide for the payment of the cost of preliminary engineering and economic surveys relating to the Stadium, and for the payment of the cost of planning, designing and constructing such Stadium, and to provide funds for the operation and maintenance of such Stadium, and for the payment of interest on the bonds authorized herein during the period of construction and during the 12-month period following completion of construction of the Stadium, by an issue or issues of negotiable bonds of the Board, bearing interest, payable annually or semiannually, as the Board shall determine, at a rate not exceeding such rate as shall be approved by the Secretary of the Treasury. All such bonds may be registered as to principal alone or both principal and interest, shall be payable as to principal within not to exceed 30 years from the date thereof, shall be in such denominations, shall be executed in such manner, and shall be payable in such medium and at such place or places as the Board may determine, and the face amount thereof shall be so calculated as to produce, at the price of their sale, the cost of the Stadium constructed pursuant to this subchapter. The Board may reserve the right to redeem any or all of the bonds before maturity in such manner and at such price or prices not exceeding 105 per centum of the face value and accrued interest as may be fixed by the Board prior to the issuance of the bonds. The Board when it deems advisable may issue refunding bonds to refinance any outstanding bonds, and interest thereon, at maturity or before maturity when called for redemption, except that such refunding bonds shall mature within not to exceed 30 years from the date thereof, or not to exceed 50 years from September 7, 1957, whichever shall first occur.

(b) The bonds may be sold at not less than par. If the proceeds of the bonds shall exceed the cost, the excess shall be placed in the fund created by § 2-325 for the payment of the principal and interest of such bonds. Prior to the preparation of definitive bonds the Board may, under like restrictions, issue temporary bonds, or may, under like restrictions, issue temporary bonds or interim certificates without coupons, of any denomination whatsoever, exchangeable for definitive bonds when such bonds that have been executed are available for delivery.

(c) All bonds, or other securities, issued by the Board under authority of this subchapter shall be exempt both as to principal and interest from all

taxation (except estate and inheritance taxes) now or hereafter imposed by the District of Columbia. (Sept. 7, 1957, 71 Stat. 619, Pub. L. 85-300, § 4; July 28, 1958, 72 Stat. 421, Pub. L. 85-561, § 1(4-8); 1973 Ed., § 2-1722.)

**Section references.** — This section is referred to in §§ 2-307 and 2-325.

## § 2-324. Authorization of Board to carry out purposes of subchapter.

(a) In order to carry out the purposes of this subchapter, the Board is hereby authorized without regard to any other provision of law, but subject to any contract entered into with the Secretary of the Interior under § 2-322:

(1) To determine all questions concerning the use of the Stadium for the purposes of this subchapter;

(2) To enter into contracts and agreements with the District of Columbia and the federal departments, bureaus, establishments, and offices, and 31 U.S.C. § 1535(a) to (d) is hereby made applicable to such contracts;

(3) To acquire by purchase or lease, equipment, appliances, facilities, and property of any kind necessary or desirable to carry out the purposes of this subchapter, and to sell or dispose of any such property so acquired when in its judgment it shall be advantageous to do so, except that no contract for more than \$3,000 shall be entered into for the purpose of this paragraph without competitive bidding;

(4) To make such structural and other changes in the Stadium as it may deem necessary or desirable for carrying out the purposes of this subchapter;

(5) To light, operate and maintain motor vehicle parking lots;

(6) To operate or contract for the operation of such concessions, including the checking of clothing and the sale of beverages and food as the Board may deem appropriate to the purposes for which the Stadium may be rented or leased;

(7) To furnish such services to renters, lessees, and other occupants of the Stadium as in its judgment are necessary or suitable for carrying out the purposes of this subchapter;

(8) To rent or lease from time to time, for any of the purposes of this subchapter, all or any part or parts of the Stadium including any or all structures, equipment, or facilities of the Stadium, at such rental values and for such periods of time as the Board shall determine;

(9) To carry public-liability insurance protecting the Board, and the members, officers, and employees thereof engaged in operating and maintaining the Stadium, and in operating and maintaining the motor vehicle parking areas in connection therewith; and to require tenants or lessees of the Stadium to carry public-liability insurance protecting the interests of such tenants or lessees;

(10) To accept the gratuitous services of such persons as may volunteer to aid in the conduct of its activities;

(11) To enter into contracts, contingent or otherwise, for expert, professional, and other personal services, and for printing, engraving, supplies, or

any items or services necessary and incident to the preparation and sale of bonds, to be paid out of the proceeds of the sale of such bonds; and

(12) To provide emergency protection when the temperature falls below 26 degrees Fahrenheit.

(b)(1) Subsequent to the transfer of all right, title, and interest in and to the Stadium to the District of Columbia, the management, operation, and maintenance of the Stadium shall remain the responsibility of the District of Columbia Armory Board (or successor public agency).

(2) The District of Columbia Armory Board (or successor public agency) shall not have the authority to delegate, assign, lease, or contract out for the management, operation, or maintenance of the Stadium except to an independent manager or management entity which is not directly or indirectly associated or connected with any tenant of the Stadium.

(3) In the event that both a major, professional league football team and a baseball team are tenants at the Stadium, and both are owned by the same individual or entity, such Board or agency shall have the authority to delegate, assign, lease, or contract the management, operation, or maintenance to such individual or entity.

(4) Any delegation, assignment, lease, or contract that is made or entered into pursuant to this section shall be subject to approval, by resolution, of the Council of the District of Columbia, if that delegation, assignment, lease or contract is either longer than 10 days in duration or greater than \$100,000 in value. (Sept. 7, 1957, 71 Stat. 620, Pub. L. 85-300, § 5; July 28, 1958, 72 Stat. 421, 422, Pub. L. 85-561, § 1(9-11); Sept. 23, 1959, 73 Stat. 702, Pub. L. 86-378, § 1(4, 5); 1973 Ed., § 2-1723; Mar. 25, 1986 D.C. Law 6-101, § 2, 33 DCR 793; Mar. 16, 1989, D.C. Law 7-204, § 4, 36 DCR 454.)

**Cross references.** — As to authorization to increase seating capacity, see 40 U.S.C. § 607.

**Section references.** — This section is referred to in §§ 2-307 and 2-327.

**Legislative history of Law 6-101.** — Law 6-101, the "District of Columbia Stadium Act of 1957 Amendment Act of 1985," was introduced in Council and assigned Bill No. 6-355, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 17, 1985, and January 14, 1986, respectively. Signed by the Mayor on January 28, 1986, it was assigned Act No. 6-129 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-204.** — See note to § 2-301.

**References in text.** — "31 U.S.C. § 1535 (a) to (d)," referred to in paragraph (2) of subsec-

tion (a) of this section, was substituted for "the Act of March 4, 1915, as amended (31 U.S.C. § 686)" on authority of § 4(b) of the Act of September 13, 1982, Pub. L. 97-258.

**Construction of Law 7-204.** — Section 7 of D.C. Law 7-204 provided that nothing in the act shall be construed to reduce the rights recognized by subchapter I of Chapter 6 of Title 3.

**Delegation of Authority Pursuant to D.C. Law 7-204, the "Frigid Temperature Protection Amendment Act of 1988".** — See Mayor's Order 89-123, June 2, 1989.

**Parking lot at the Stadium is a federal area** within the meaning of 40 U.S.C. § 804, relating to the Secretary of the Interior's provision of transportation services between federal areas. *United States v. District of Columbia*, 571 F.2d 651 (D.C. Cir. 1977).



**§ 2-325. Deposit of receipts; sinking fund; statement showing costs of construction of Stadium.**

(a) The Board shall place into the Starplex Fund established by § 2-307 all receipts derived from the exercise by the Board of the powers granted by this subchapter. All records and accounts relating to the operations, revenues, expenses, and costs of the Stadium and the lighting, operation, and maintenance of motor vehicle parking areas in connection with such Stadium shall be kept separate and distinct from the records and accounts relating to the operations, revenues, expenses, and costs of the District of Columbia National Guard Armory. The Starplex Fund shall be used for constructing, operating, maintaining, and repairing the Stadium and the lighting, operation, and maintenance of motor vehicle parking areas in connection with such Stadium. After payment or provision for payment from the operating fund of all costs for construction, maintenance, repair, and operation of the Stadium and the lighting, operation, and maintenance, of motor vehicle parking areas in connection with such Stadium and the reservation of an amount of money estimated to be sufficient for the maintenance, repair, and operation during the ensuing period of not more than 12 months, the remainder of the receipts derived from the exercise by the Board of the powers granted by this subchapter shall be placed in a sinking fund. Such sinking fund shall be used for the following purposes and in the following order of priority: (1) To pay the interest on and principal of bonds and other securities issued under authority of § 2-323; (2) to reimburse the District of Columbia for any moneys advanced from its revenues and any amounts borrowed by the Council of the District of Columbia from the Secretary of the Treasury, including interest on such borrowed amounts, to pay interest on or principal of bonds issued by the Board; and (3) to redeem bonds before maturity as provided in § 2-323, or to repurchase bonds before maturity. All revenues from the operation of the Stadium and the lighting, operation, and maintenance of motor vehicle parking areas in connection with such Stadium are hereby pledged to the uses and to the application thereof as heretofore in this subsection required. An accurate record of the cost of the Stadium and the lighting, operation, and maintenance of motor vehicle parking areas in connection with such Stadium, the expenditures for maintenance and operation, and of rentals and lease receipts shall be kept and shall be available for the information of all interested persons.

(b) Within a reasonable time after the construction of the Stadium, the Board shall file with Congress and the Council of the District of Columbia a sworn itemized statement showing the cost of constructing the Stadium, and the amount of bonds, debentures, or other evidences of indebtedness issued in connection with the construction of such Stadium. (Sept. 7, 1957, 71 Stat. 621, Pub. L. 85-300, § 6; July 28, 1958, 72 Stat. 422, Pub. L. 85-561, § 1(12); Sept. 23, 1959, 73 Stat. 702, Pub. L. 86-378, § 1(6, 7); 1973 Ed., § 2-1724; Apr. 7, 1977, D.C. Law 1-113, § 3, 23 DCR 8742; June 14, 1980, D.C. Law 3-70, § 7(p), 27 DCR 1776.)

**Cross references.** — As to the disposition of revenue derived from additional seating capacity of Stadium, see 40 U.S.C. § 607.

**Section references.** — This section is referred to in §§ 2-307, 2-323 and 2-328.

**Legislative history of Law 1-113.** — See note to § 2-306.

**Legislative history of Law 3-70.** — See note to § 2-306.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(63) of Reorganization Plan No. 3 of 1967

(see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## **§ 2-326. Title to Stadium to vest in United States; date; conveyance and lease to District of Columbia; non-transferability; uses of property; reversion for noncompliance.**

(a) After payment of the bonds and interest or after a sinking fund sufficient for such purpose shall have been provided and shall be held solely for that purpose, but in any event not later than 50 years from September 7, 1957, all right, title, and interest in and to the Stadium constructed under this subchapter shall vest in the United States.

(b)(1) Not later than 180 days after October 29, 1986, the Secretary of the Interior shall:

(A) Convey without consideration to the government of the District of Columbia all right, title, and interest of the United States in and to the building comprising the Stadium constructed under this subchapter; and

(B) Lease without consideration to the government of the District of Columbia:

(i) The ground under; and

(ii) The parking facilities associated with the Stadium constructed under this subchapter.

(2) The lease authorized by paragraph (1)(B) of this subsection shall be for a period of 50 years.

(c) The conveyance and lease of real property under subsection (b) of this section shall be subject to such terms and conditions (which shall be set forth in the instrument of conveyance) as will ensure that title to the property shall not be transferred by the District to any person or entity other than the United States or any political subdivision or agency of the District of Columbia or the United States and that the property will be used only for:

(1) Stadium purposes;

(2) Providing recreational facilities, open space, or public outdoor recreation opportunities;

(3) Such other public purposes for which the property was used prior to June 1, 1985; and

(4) Such other public purposes for which the property was approved for use by the Secretary with the concurrence of the National Capital Planning Commission prior to June 1, 1985.

(d)(1) The instrument of conveyance and the lease referred to in subsection (c) of this section shall provide that all right, title, and interest conveyed to the District of Columbia pursuant to such instrument of conveyance shall revert to the United States and the lease shall terminate if:

(A) The terms and conditions referred to in subsection (c) of this section have not been complied with, as determined by the Secretary, and

(B) Such noncompliance has not been corrected within 90 days after written notice of such noncompliance has been received by the Mayor of the District of Columbia. Such noncompliance shall be treated as corrected if the District of Columbia and the Secretary enter into an agreement, with the concurrence of the National Capital Planning Commission, which the Secretary considers adequate to ensure that the property will be used in a manner consistent with the purposes referred to in subsection (c) of this section.

(2) No person may bring an action respecting a violation of any term or condition referred to in subsection (c) of this section before the expiration of 90 days after the date on which such person has notified the Mayor of the District of Columbia of the alleged violation. The notice shall include notice of such person's intention to bring an action to declare a reversion and termination of the lease under paragraph (1) of this subsection.

(3) The conveyance of real property under subsection (b) of this section shall be made subject to the condition that the District of Columbia shall bear the cost of removing structures or rehabilitating the land or Stadium should the Stadium revert to the United States pursuant to this subsection.

(4) Any property which reverts to the Secretary under this subsection shall be administered by the Secretary as part of the Park System of the Nation's Capital in accordance with the provisions of the Act of August 25, 1916 (16 U.S.C. §§ 1, 2-4), and other provisions of the law generally applicable to units of the national park system. (Sept. 7, 1957, 71 Stat. 621, Pub. L. 85-300, § 7; July 28, 1958, 72 Stat. 422, Pub. L. 85-561, § 1(13); 1973 Ed., § 2-1725; Oct. 29, 1986, 100 Stat. 3313, Pub. L. 99-581, § 1.)

**Section references.** — This section is referred to in § 2-307. 99-581 designated the existing language as subsection (a) and added subsections (b)

**Effect of amendments.** — Public Law through (d).

## § 2-327. Employment of personnel; compensation; delegation of powers.

(a) The Board is authorized to employ and fix compensation of such personnel as may be necessary to carry out the purposes of this subchapter.

(b) Under the direction of the Board and with the written authorization signed by the members thereof, an employee of the Board may exercise such of the powers vested in the Board by § 2-324 as the Board shall determine. (Sept. 7, 1957, 71 Stat. 621, Pub. L. 85-300, § 8; 1973 Ed., § 2-1726; Mar. 3, 1979, D.C. Law 2-139, § 3205(bb), 25 DCR 5740.)



**Cross references.** — As to effective date of D.C. Law 2-139, see § 1-637.1.

**Section references.** — This section is referred to in §§ 1-612.16, 1-637.1 and 2-307.

**Legislative history of Law 2-139.** — Law 2-139, the "District of Columbia Government Comprehensive Merit Personnel Act of 1978," was introduced in Council and assigned Bill

No. 2-10, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

## **§ 2-328. Limitation on indebtedness; liability of Board members; deficits in sinking fund to be included in budget estimates; authority of Council to borrow from Secretary of Treasury; repayment; bonds guaranteed by United States.**

Nothing contained in this subchapter shall be construed to authorize or permit the Board or any member thereof to create any obligation or incur any liability other than such obligations and liabilities as are dischargeable solely from funds contemplated to be provided by this subchapter. No obligation created or liability incurred pursuant to this subchapter shall be a personal obligation or liability of any member or members of the Board, but shall be chargeable solely to the funds contemplated to be provided by this subchapter. Whenever the Board certifies to the Council of the District of Columbia that there will not be a sufficient amount in the sinking fund created by § 2-325(a) to pay amounts becoming due and payable during any fiscal year on account of interest on or retirement of the bonds, the Council of the District of Columbia shall include in the budget estimates for the District of Columbia for such fiscal year such amounts out of the revenues of the District of Columbia as may be necessary to insure the payment of such interest of the retirement of such bonds. In the event an appropriation has not been made by the time the amount becomes due and payable on account of interest on or retirement of the bonds, the Council of the District of Columbia is authorized to borrow from the Secretary of the Treasury the amounts required, to bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on current marketable obligations of the United States of comparable maturities as of the last day of the month preceding the month in which the amount is borrowed. The Secretary of the Treasury is authorized and directed to lend to said Council the amounts required hereunder and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include any loans to said Council hereunder. Amounts borrowed by said Council from the Secretary of the Treasury pursuant to this section and the interest thereon shall be repaid promptly from the funds appropriated pursuant to authority in this section and from any other appropriation available for such purpose. Amounts appropriated for payment of interest on or retirement of bonds and amounts borrowed by the Council for such purpose shall be

advanced by the Council to the Board and shall be placed by the Board in such sinking fund. All bonds and other securities issued by the Board under authority of this subchapter are hereby guaranteed as to both principal and interest by the United States. (Sept. 7, 1957, 71 Stat. 621, Pub. L. 85-300, § 9; July 28, 1958, 72 Stat. 422, Pub. L. 85-561, § 1(14); 1973 Ed., § 2-1727.)

**Section references.** — This section is referred to in § 2-307.

**References in text.** — The Second Liberty Bond Act, as amended, referred to in the fifth sentence of this section, formerly codified in 31 U.S.C. §§ 745, 747, 752 to 754b, 757, 757b to 758, 760, 764 to 766, 769, 771, 773, 774, and 801, has been superseded by the Act of September 13, 1982, 96 Stat. 877, Pub. L. 97-258.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(63) of Reorganization Plan No. 3 of 1967

(see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-329. Financial statement; report of activities and business; recommendations.

The Board shall file with the Congress in July of each year a financial statement certified as to accuracy by the Council of the District of Columbia, or its designated agent, a report of the activities and business at the Stadium, and of the operation and maintenance of the motor vehicle parking areas in connection therewith, during the preceding fiscal year, and recommendations to Congress as to future control and use of the Stadium. (Sept. 7, 1957, 71 Stat. 622, Pub. L. 85-300, § 10; July 28, 1958, 72 Stat. 423, Pub. L. 85-561, § 1(15); Sept. 23, 1959, 73 Stat. 702, Pub. L. 86-378, § 1(8); 1973 Ed., § 2-1728; Nov. 15, 1977, 91 Stat. 1383, Pub. L. 95-185, § 3.)

**Section references.** — This section is referred to in § 2-307.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(63) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of

Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**Delegation of functions.** — The duty to certify to the accuracy of the Armory Board financial statement required by § 2-329 was delegated to the Office of Municipal Audit and Inspection by Organization Order No. 33, dated July 13, 1972. Organization Order No. 50, dated December 31, 1974, established the Office of Budget and Management Systems, and transferred to that Office the functions of the Municipal Audit Office. The Office of Budget and Management Systems was replaced by



Mayor's Order 79-5, dated January 2, 1979, which Order established the Office of Budget and Resource Development.

### § 2-330. "Stadium" defined.

As used in this subchapter the term "Stadium" includes all equipment, appliances, facilities, and property of any kind (including any area designated A, B, C, D, or E on the revised map entitled "Map to Designate Transfer of Stadium and Lease of Parking Lots to the District," prepared jointly by the National Park Service (National Capital Region) and the District of Columbia Department of Public Works for site development and dated October 1986 (NPS drawing number 831/87284-A)), necessary to carry out the purposes of this subchapter. (Sept. 7, 1957, 71 Stat. 622, Pub. L. 85-300, § 11; July 28, 1958, 72 Stat. 423, Pub. L. 85-561, § 1(16); Sept. 23, 1959, 73 Stat. 702, Pub. L. 86-378, § 1(9); 1973 Ed., § 2-1729; Oct. 29, 1986, 100 Stat. 3313, Pub. L. 99-581, § 2.)

**Section references.** — This section is referred to in § 2-307.

99-581 inserted the parenthetical language following "property of any kind."

**Effect of amendments.** — Public Law

### *Subchapter III. Public Safety at Stadium and Armory.*

### § 2-341. Possession of disposable containers prohibited; exceptions.

(a) Except as provided in subsection (b) of this section, no person shall bring into or have in his or her possession within the Robert F. Kennedy Memorial Stadium any conveniently disposable container made of glass or metal designed primarily to hold or store beverages or liquids of any kind, including but not limited to bottles or cans.

(b) Subsection (a) of this section shall not apply to:

(1) Any person duly authorized or licensed by the District of Columbia Armory Board to possess, sell, give away, transport, or store alcoholic beverages or containers within any portion of the Robert F. Kennedy Memorial Stadium or the District of Columbia National Guard Armory or to any employee or agent acting for any such duly authorized or licensed person; or

(2) Activities of the District of Columbia National Guard as provided in § 2-305.

(c) For the purposes of this section, the term "person" includes any duly authorized or licensed individual, partnership, association, or corporation. (1973 Ed., § 2-1741; Nov. 3, 1977, D.C. Law 2-37, § 2, 24 DCR 4058.)

**Legislative history of Law 2-37.** — Law 2-37, the "Robert F. Kennedy Memorial Stadium and the D.C. National Guard Armory Public Safety Act of 1977," was introduced in Council and assigned Bill No. 2-79, which was referred to the Committee on the Judiciary.

The Bill was adopted on first and second readings on July 12, 1977, and July 26, 1977, respectively. Signed by the Mayor on August 11, 1977, it was assigned Act No. 2-71 and transmitted to both Houses of Congress for its review.



**§ 2-342. Unauthorized entry onto Stadium playing field prohibited.**

Unless expressly authorized by the District of Columbia Armory Board or its duly authorized agent, no person shall at any time enter onto any portion of the playing field within the Robert F. Kennedy Memorial Stadium. For the purposes of this section, the "playing field" is that area encompassed by the seating facilities within that Stadium as such seating facilities may be arranged from time to time. (1973 Ed., § 2-1742; Nov. 3, 1977, D.C. Law 2-37, § 3, 24 DCR 4058.)

**Legislative history of Law 2-37.** — See note to § 2-341.

**§ 2-343. Establishment of barriers or restricted zones by Chief of Police.**

Whenever the Chief of Police of the Metropolitan Police Department, or his or her duly authorized agent, determines that there is or may be a need for controlling the movement of persons attending events being held at the Robert F. Kennedy Memorial Stadium or the District of Columbia National Guard Armory, he or she may establish barriers or restricted zones, as he or she considers necessary, for the purpose of affording a clearing for:

- (1) The operation of firemen or policemen;
- (2) The movement of traffic;
- (3) The exclusion of the public from the vicinity of a riot, disorderly gathering, accident, wreck, explosion, or other emergency; or
- (4) The safety and protection of persons and property. (1973 Ed., § 2-1743; Nov. 3, 1977, D.C. Law 2-37, § 4, 24 DCR 4058.)

**Legislative history of Law 2-37.** — See note to § 2-341.

**§ 2-344. Penalty for violation of subchapter.**

Any person who violates any provision of this subchapter shall upon conviction be fined not more than \$300. (1973 Ed., § 2-1744; Nov. 3, 1977, D.C. Law 2-37, § 5, 24 DCR 4058.)

**Legislative history of Law 2-37.** — See note to § 2-341.

## CHAPTER 4. BARBERS.

Sec.

2-401 to 2-419. [Repealed].

**§§ 2-401 to 2-419. Short title; definitions; Board of Barber Examiners created; composition; qualifications; term of office; removal; vacancies; officers; records; rules and regulations; annual report; certificates of registration; prerequisites; registered apprentices; prerequisites; examinations; exceptions to examination requirements; certificate of registration — Display; renewal; refusal to issue, renew, or restore; revocation; appeal; fees; refunds; quarters for Board; compensation of Board members; appointment and compensation of clerks, inspectors, and other personnel; payment of expenses of Board; requirements for certificate of registration of barber school or college; unlawful practices; penalty; regulations for posting prices of services; fine for violation of regulations; persons exempt from chapter; severability; repeal of inconsistent laws; laws not affected; purpose.**

Repealed. Mar. 17, 1993, D.C. Law 9-245, § 38(a), 40 DCR 660.

**Cross references.** — As to rules and regulations, see § 1-319. As to Mayor's authority to fix fees, see § 1-346. As to Mayor's authority to increase or decrease fees, see § 1-347. As to honorariums to various board members and commissioners, see § 1-348. As to compensation for members of boards and commissions, see § 1-612.8. As to administrative procedure, see Chapter 15 of Title 1. As to judicial review, see § 11-722. As to refund of fees when license is refused, see § 47-1318. As to business licenses, see Chapter 28 of Title 47. As to Council's authority to regulate, modify, or eliminate license requirements, see § 47-2842.

**Legislative history of Law 9-245.** — Law 9-245, the "Barber and Cosmetology Revision Act of 1992," was introduced in Council and assigned Bill No. 9-500, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 1, 1992, and December 15, 1992, respectively. Signed by the Mayor on January 6, 1993, it was assigned Act No. 9-388 and transmitted to both Houses of Congress for its review. D.C. Law 9-245 became effective on March 17, 1993.

CHAPTER 4A. BARBERS AND COSMETOLOGISTS.

Sec.	Sec.
2-421. Definitions.	2-439. Inspections.
2-422. Barber and Cosmetology Board.	2-440. Denial of license.
2-423. Qualifications of members.	2-441. Disciplinary action.
2-424. Conflicts of interest.	2-442. Owners and managers.
2-425. Terms of members; filling of vacancies.	2-443. Voluntary surrender of occupational license.
2-426. Removal.	2-444. Term and renewal of license.
2-427. Powers and duties.	2-445. Display of license; change of address.
2-428. Officers; meetings; quorum.	2-446. Reinstatement of expired license.
2-429. Compensation.	2-447. Reinstatement of revoked licenses.
2-430. Annual reports.	2-448. Hearings.
2-431. General powers and duties of the Mayor.	2-449. Summary actions.
2-432. License required.	2-450. Cease and desist orders.
2-433. Exemptions.	2-451. Judicial review.
2-434. Licenses or certificates of registration issued pursuant to prior law.	2-452. Prohibited acts.
2-435. Permitted practice.	2-453. Criminal and civil sanctions.
2-436. Application of license.	2-454. Prosecutions.
2-437. Qualifications of applicants.	2-455. Injunctions.
2-438. Reciprocity or endorsement.	2-456. Regulations.

§ 2-421. Definitions.

For the purposes of this chapter, the term:

(1) "Barber salon" means premises, or part thereof, in which is regularly performed any service that is defined by this chapter as the practice of barbering.

(2) "Beauty salon" means the premises, or part thereof, in which is regularly performed any service that is defined by this chapter as the practice of cosmetology.

(3) "Board" means the Barber and Cosmetology Board established by § 2-422.

(4) "Cosmetic preparation" means an antiseptic, bleach, clay, cleanser, cream, depilatory, lotion, makeup, oil, powder, shampoo, tonic, or other chemical compound that is of generally accepted use in a practice regulated by this chapter.

(5) "Day" means calendar day.

(6) "Demonstrator" means an individual who, for compensation, conducts sales demonstrations on cosmetic preparations or other products or equipment for use in a practice regulated by this chapter.

(7) "Direct supervision" means supervision in which the supervisor is physically present and is assisting, observing, or available to the supervisee during the supervisee's practice.

(8) "District" means the District of Columbia.

(9) "Individual" means a natural person.

(10) "Instructor" means an individual who teaches a practice regulated by this chapter.

(11) "License" means an occupational, salon, instructor, or manager's license as defined by this chapter, or certificate of registration, issued pursuant to this chapter.



ant to this chapter, Chapter 4 of this title, Chapter 9 of this title, or any other regulation or rule repealed or superseded by this chapter.

(12) "Manager" (including master barbers) means an individual who is responsible for overseeing the practice of an occupation in a salon, and for otherwise directing the operations of the salon.

(13) "Mayor" means the Mayor of the District of Columbia.

(14) "Occupation" means a practice that is regulated by this chapter, or acting as a manager or instructor of persons engaged in a practice regulated by this chapter.

(15) "Person" means an individual, corporation, partnership, or other legal entity.

(16) "Practice of barbering" means providing or offering to the general public for a fee any of the following services solely for cosmetic purposes: cutting, dressing, singeing, shampooing, styling, or similar work performed upon the face, hair, hairpiece, or wig of an individual; shaving or trimming of facial hair of an individual; or massaging or applying cosmetic preparations to the face, neck, or scalp of an individual. The practice of barbering shall not include manicuring, electrolysis, or the braiding or weaving of hair.

(17) "Practice of braiding", also known as cornrowing, means providing or offering to the general public for a fee any of the following services solely for cosmetic purposes: interweaving strands of hair, including, but not limited to, intertwining in a systematic motion to create patterns in a 3-dimensional form; inversion or outversion flat against the scalp along the part of a straight or curved row; twisting in a systematic motion; extension with natural or synthetic fibers; or shampooing, cutting, or curling of natural or synthetic hair.

(18) "Practice of cosmetology" means providing or offering to the general public for a fee any of the following services solely for cosmetic purposes: bleaching, braiding, coloring, curling, cutting, dressing, eyebrow arching, the use of devices or chemicals to straighten, curl, or wave hair, shampooing, singeing, styling, weaving, or similar work performed upon the face, hair, hairpiece, or wig of an individual; electrolysis; esthetics; and manicuring. The practice of cosmetology shall not include shaving or trimming the beard or moustache of an individual.

(19) "Practice of electrolysis" means providing or offering to the general public for a fee the following service solely for cosmetic purposes: the use of an electric current to affect the permanent removal of hair from the face and body.

(20) "Practice of esthetics" means providing or offering to the general public for a fee the following services solely for cosmetic purposes: enhancing, massaging, cleansing, or stimulating the skin of the human body, except the scalp, by the use of a cosmetic preparation, antiseptic, tonic, lotion, cream, or device, electrical or otherwise; to apply makeup to the face or body; to apply false eyelashes; to tint eyelashes or eyebrows; to lighten or darken hair on the body, except the scalp; and to remove hair from the body of an individual by the use of depilatories, wax, or tweezers. The practice of esthetics does not include the services provided by an electrologist.

(21) "Practice of manicuring" includes pedicuring and means providing or offering to the general public for a fee the following services solely for cosmetic purposes: filing, shaping, trimming, painting, cleaning, nourishing, and stimulating the natural fingernail or toenail; the application of chemical treatments to the fingernail or toenail, including, but not limited to, the application of false fingernails, acrylic sculptured nails, nail tips, and nail wrapping; and massage of the finger, hand, arm below the elbow, toe, foot, or leg below the knee. The practice of manicuring shall not include the cutting of nailbed, corns, or callouses, or other medical treatments involving the foot or ankle of any individual.

(22) "Respondent" means an applicant for holder of a license, or an individual permitted to practice an occupation pursuant to this chapter, against whom a denial or disciplinary action is contemplated, proposed, or taken.

(23) "School" means premises, or part thereof, in which instruction is provided in the practice of an occupation as defined by this chapter.

(24) "Specialty cosmetology" means the practice or instruction of electrology, esthetics, manicuring, or braiding.

(25) "Specialty cosmetology manager" means an individual who is responsible for overseeing the practice or instruction of electrology, esthetics, manicuring, or braiding in a salon or school, and for otherwise directing the operations of the salon or school.

(26) "State" means a state, commonwealth, territory, or possession of the United States. (Mar. 17, 1993, D.C. Law 9-245, § 2, 40 DCR 660.)

**Legislative history of Law 9-245.** — Law 9-245, the "Barber and Cosmetology Revision Act of 1992," was introduced in Council and assigned Bill No. 9-500, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 1, 1992, and December 15, 1992, respectively. Signed by the Mayor on January 6, 1993, it was assigned Act No. 9-388 and transmitted to both Houses of Congress for its review. D.C. Law 9-245 became effective on March 17, 1993.

**References in text.** — "Chapter 4 of this title" referred to in (11) is 52 Stat. 620 — 624, ch. 322, §§ 1-14, 16-19 and 65 Stat. 128, ch. 251, § 3, repealed by § 38 of D.C. Law 9-245 (D.C. Code §§ 2-401 through 2-419).

"Chapter 9 of this title" referred to in (11) is 52 Stat. 611 — 620, ch. 321, §§ 1-28, repealed by § 38(b) of D.C. Law 9-245 (D.C. Code §§ 2-901 through 2-928).

**Pending actions and proceedings; existing orders.** — Section 41 of D.C. Law 9-245 provided that:

"(a) No suit, action, or judicial or administrative proceeding commenced by or against any person, or board abolished by this act, or any member, officer or employee of the board abolished by this act in his or her official capacity, shall abate by reason of the taking of effect of this act. The action or proceeding shall be continued with substitutions as to parties and officers or agencies as are appropriate.

"(b) All decisions issued by the boards abolished by this act shall continue in effect until modified, rescinded, or superseded by action of their successor board."

**Delegation of Authority under D.C. Law 9-245, the Barber and Cosmetology Act of 1992.** — See Mayor's Order 93-118, August 11, 1993.

## § 2-422. Barber and Cosmetology Board.

(a) There is established a Barber and Cosmetology Board consisting of 9 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of barbering, barber instructors, barber managers, and barbering salons; the practice of cosmetology, cosmetology instructors, cosmetology managers, and cosmetology salons; and the prac-



tice of specialty cosmetology, specialty cosmetology instructors, specialty cosmetology managers, and specialty cosmetology salons.

(c) Three of the members of the Board shall be cosmetologists, 3 members shall be barbers, 2 members shall be specialty cosmetologists, and 1 shall be a consumer.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed pursuant to this section, 1 shall be appointed for a term of 1 year, 4 shall be appointed for a term of 2 years, and 4 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments. (Mar. 17, 1993, D.C. Law 9-245, § 3, 40 DCR 660.)

**Section references.** — This section is referred to in § 2-421.

**Legislative history of Law 9-245.** — See note to § 2-421.

**Transitional provisions.** — Section 40 of D.C. Law 9-245 provided that:

“(a) The personnel, records, property, unexpended balances of appropriations, and other funds that relate to the functions of the Board of Barber Examiners for the District of Columbia abolished by this act are transferred to the Barber and Cosmetology Board established by this act.

“(b) The personnel, records, property, unexpended balances of appropriations, and other funds that relate primarily to the functions of the District of Columbia Board of Cosmetology abolished by this act are transferred to the Barber and Cosmetology Board established by this act.

“(c) The members of the existing Boards shall continue to serve until a majority of the members appointed pursuant to § 2-422 are installed.”

## § 2-423. Qualifications of members.

(a) The barber and cosmetology members of the Board shall be residents of the District and shall have been licensed and engaged in the practice of barbering, cosmetology, or specialty cosmetology for the 3-year period immediately preceding their appointment, except that initial appointees to the specialty cosmetology seats on the Board shall be qualified for licensure upon furnishing proof to the Mayor that they were performing the services of a specialty cosmetologist during the specified period. Such appointees shall promptly apply for licensure upon issuance of rules implementing this chapter.

(b) The consumer member of the Board shall:

(1) At the time of appointment and while a member of the Board, be a resident of the District;

(2) Not be, share a residence with, or be related by blood, marriage, or adoption to, an individual who is licensed or is training to become licensed in an occupation regulated by the Board; and

(3) Not have an interest in, operate, be employed by, share a residence with, or be related by blood, marriage, or adoption to an individual who has interest in, operates, or is employed by, a barber salon, beauty salon, or business that has as its primary purpose the sale of cosmetic preparations or other products or equipment for use in the practice of an occupation regulated by the Board. (Mar. 17, 1993, D.C. Law 9-245, § 4, 40 DCR 660.)



**Legislative history of Law 9-245.** — See note to § 2-421.

**§ 2-424. Conflicts of interest.**

A member of the Board shall not participate in any proceeding, discussion, or decision relating to a potential Board action involving the member or person with whom the member has a personal or business affiliation that could compromise the member's objectivity. (Mar. 17, 1993, D.C. Law 9-245, § 5, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

**§ 2-425. Terms of members; filling of vacancies.**

(a) At the end of a term, a member shall continue to serve until a successor is appointed and sworn into office.

(b) A successor appointed to fill a vacancy shall serve until the expiration of the term or until a successor is appointed and sworn into office.

(c) No member of the Board shall be appointed to serve more than 3 consecutive 3-year terms. (Mar. 17, 1993, D.C. Law 9-245, § 6, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

**§ 2-426. Removal.**

(a) The Mayor may remove a member of the Board for incompetence, misconduct, or neglect of duty, after due notice and a hearing.

(b) The failure of a member of the Board to attend at least one-half of the regularly scheduled meetings of the Board within a 12-month period shall make that member subject to removal. (Mar. 17, 1993, D.C. Law 9-245, § 7, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

**§ 2-427. Powers and duties.**

The Board shall:

(1) Administer and enforce the provisions of this chapter and rules issued pursuant to this chapter relating to the occupations, instructors, managers, and salons regulated by the Board;

(2) Evaluate the qualifications of applicants for licenses to practice occupations, or to be instructors or managers of schools or salons;

(3) Determine the subjects, scope, form, and passing score for examinations to assess the abilities of applicants for licensure;

(4) Supervise the administration of examinations through staff support provided by the Mayor or through the use of consultant services;

(5) Approve the issuance of licenses to qualified applicants;

(6) Receive and review complaints of, and request the Mayor to conduct investigations of, possible violations of this chapter or rules issued pursuant to this chapter by persons regulated by the Board; and

(7) Issue subpoenas, conduct hearings, administer oaths, examine witnesses, and render decisions relating to the denial, suspension, or revocation of licenses or other disciplinary actions against persons regulated by the Board. (Mar. 17, 1993, D.C. Law 9-245, § 8, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

### § 2-428. Officers; meetings; quorum.

(a) The Mayor shall designate a chairperson from among the members of the Board.

(b) The Board shall determine the times for its meetings.

(c) A majority of the members serving on the Board shall constitute a quorum. (Mar. 17, 1993, D.C. Law 9-245, § 9, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

### § 2-429. Compensation.

Members of the Board shall receive compensation in accordance with § 1-612.8. (Mar. 17, 1993, D.C. Law 9-245, § 10, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

### § 2-430. Annual reports.

The Board shall, before February 1 of each year, submit to the Mayor and the Council of the District of Columbia a report of its official acts during the preceding calendar year. (Mar. 17, 1993, D.C. Law 9-245, § 11, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

### § 2-431. General powers and duties of the Mayor.

The Mayor shall:

(1) Maintain and make available for public inspection an official register of current licensees containing the name of each licensee, the known place of business and residence of each licensee, and the date of issuance and number of each license;

(2) Provide information to the public concerning application, licensing, and renewal requirements and procedures;

(3) Deposit all fees, fines, and other funds collected pursuant to this chapter in the General Fund of the District;

(4) Conduct investigations and inspections determined by the Mayor to be necessary to ensure compliance with the provisions of this chapter and rules issued pursuant to this chapter;

(5) Issue subpoenas in connection with an investigation or proceeding initiated pursuant to this chapter or rules issued pursuant to this chapter;

(6) Establish a schedule of fees to recover the costs associated with the regulation of occupations and salons, pursuant to this chapter;

(7) Process and provide licenses as required and approved by the Board;

(8) Provide administrative, budgetary, personnel, and hearing support services and facilities sufficient to enable the Board to perform its duties, as the Mayor determines is necessary or appropriate;

(9) Maintain all Board records; and

(10) Publish notice of Board meetings in the District of Columbia Register. (Mar. 17, 1993, D.C. Law 9-245, § 12, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

## **§ 2-432. License required.**

(a) Except as otherwise provided in this chapter, no person shall practice without a license as a barber, cosmetologist, or specialty cosmetologist, manage a barber salon or beauty salon, teach barbering, cosmetology, or specialty cosmetology, act as a demonstrator, or operate a barber salon, or beauty school.

(b) No individual shall act as a demonstrator unless issued a certificate of registration by the Board.

(c) An individual issued a cosmetology or specialty cosmetology license may practice only in a licensed salon under the supervision of a licensed cosmetology manager or specialty cosmetology manager.

(d) Educational, examination, and training requirements for a specialty cosmetology license shall be restricted to that which is relevant to the particular practice. (Mar. 17, 1993, D.C. Law 9-245, § 13, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

## **§ 2-433. Exemptions.**

The provisions of this chapter shall not apply to:

(1) Persons authorized by law of the District of Columbia to practice medicine, surgery, registered nursing, dentistry, podiatry, naturapathy, osteopathy, or chiropractic;

(2) Individuals employed in the District by the federal government while individuals are acting in the official discharge of the duties of employment;

(3) Funeral directors and their apprentices; or

(4) Persons engaged in the practice of physical therapy or massage, stimulation, or exercising of the body when done for purposes of health and hy-



giene rather than for cosmetic purposes. (Mar. 17, 1993, D.C. Law 9-245, § 14, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

## § 2-434. Licenses or certificates of registration issued pursuant to prior law.

Except as otherwise provided in this chapter, any person licensed or registered pursuant to Chapter 4 of this title, Chapter 9 of this title, or other statute, regulation, or rule repealed or superseded by this chapter is considered for all purposes to be licensed pursuant to this chapter, and may apply for renewal or reinstatement pursuant to the provisions of this chapter. (Mar. 17, 1993, D.C. Law 9-245, § 15, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

**References in text.** — "Chapter 4 of this title" referred to in (11) is 52 Stat. 620 — 624, ch. 322, §§ 1-14, 16-19 and 65 Stat. 128, ch. 251, § 3, repealed by § 38(a) of D.C. Law 9-245 (D.C. Code §§ 2-401 through 2-419).

"Chapter 9 of this title" referred to in (11) is 52 Stat. 611 — 620, ch. 321, §§ 1-28, repealed by § 38(b) of D.C. Law 9-245 (D.C. Code §§ 2-901 through 2-928).

## § 2-435. Permitted practice.

(a) An individual may practice an occupation regulated by this chapter without first obtaining a license if:

(1) The individual:

(A) Is enrolled in a school licensed pursuant to this chapter as a candidate for a degree or certificate in an occupation, as defined in this chapter; or

(B) Has an initial application for an occupational license pending before the Board, and has demonstrated to the Board all the qualifications for a license other than passage of the examinations required by this chapter and rules issued pursuant to this chapter;

(2) The individual's practice is under the direct supervision of an instructor or manager licensed pursuant to this chapter; and

(3) The individual qualifies pursuant to, and the individual's practice is performed in accordance with, rules issued pursuant to this chapter.

(b) For persons permitted to practice by virtue of subsection (a)(1)(A) of this section, the authority to practice shall terminate upon the individual's completion of, or termination from, the course of instruction leading to a degree or certificate in an occupation, or as provided in rules issued pursuant to this chapter.

(c) For persons permitted to practice by virtue of subsection (a)(1)(B) of this section, the authority to practice shall be available only during the pendency of the individual's first application for a license pursuant to this chapter, and shall terminate upon the failure of the individual to pass an examination required pursuant to this chapter, the denial of the application, or as provided in rules issued pursuant to this chapter.

(d) The Board shall waive the examination requirement of § 2-437(a)(2) for any applicant for licensure as a hair braider, manicurist, electrologist, or esthetician who presents evidence satisfactory to the Board that the applicant meets the qualifications required by § 2-437(a)(1) and (3) and has been employed in the practice of braiding, manicuring, electrology, or esthetics on a full-time or substantially full-time basis for at least 3 of the last 5 years immediately preceding March 17, 1993, provided that the application for the waiver is made within 24 months of March 17, 1993, and rules issued pursuant to this chapter. (Mar. 17, 1993, D.C. Law 9-245, § 16, 40 DCR 660.)

**Section references.** — This section is referred to in §§ 2-437 and 2-456.

**Legislative history of Law 9-245.** — See note to § 2-421.

## **§ 2-436. Application for license.**

An applicant for a license shall:

(1) Submit an application to the Board on a form required by the Board; and

(2) Pay the applicable fees established by the Mayor. (Mar. 17, 1993, D.C. Law 9-245, § 17, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

## **§ 2-437. Qualifications of applicants.**

(a) An applicant for an occupational license by examination shall establish to the satisfaction of the Board that the applicant:

(1) Is at least 16 years old;

(2) Has passed the required examinations; and

(3) Meets any other requirements established by rule to ensure that the applicant has had the proper training and is otherwise qualified to practice the occupation, manage, or teach.

(b) An applicant for a certificate of registration to act as a demonstrator shall meet the requirements of subsection (a)(1) and (2) of this section.

(c) An applicant for salon license shall establish to the satisfaction of the Board that the applicant:

(1) Owns or leases the salon;

(2) Employs an individual who is licensed as a manager by the Board; and

(3) Meets any other requirements to ensure that the applicant has the qualifications to properly operate the salon, including meeting criteria governing facilities, equipment, staff, management, procedures, recordkeeping, and supervision of individuals who are practicing without a license pursuant to § 2-435(a). (Mar. 17, 1993, D.C. Law 9-245, § 18, 40 DCR 660.)

**Section references.** — This section is referred to in § 2-435.

**Legislative history of Law 9-245.** — See note to § 2-421.

**§ 2-438. Reciprocity or endorsement.**

The Board, in its discretion, may issue an occupational license by reciprocity or endorsement to an applicant:

(1) Who is licensed or certified and in good standing in another state and who meets the criteria of the Board; and

(2) Who pays the applicable fee established by the Mayor. (Mar. 17, 1993, D.C. Law 9-245, § 19, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

**§ 2-439. Inspections.**

The owner, manager, and employees of a salon shall permit the Mayor access to the premises and records of the salon for the purpose of conducting an inspection of the premises to determine compliance with District codes, determining qualifications of an applicant, compliance of a licensee with this chapter, or whether a nonlicensee is in violation of this chapter. (Mar. 17, 1993, D.C. Law 9-245, § 20, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

**§ 2-440. Denial of license.**

The Board may deny a license to an applicant who has failed to submit evidence satisfactory to the Board that the applicant meets the qualifications for licensure under this chapter or rules promulgated pursuant to this chapter. (Mar. 17, 1993, D.C. Law 9-245, § 21, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

**§ 2-441. Disciplinary action.**

(a) The Board may take 1 or more of the disciplinary actions provided for in subsection (b) of this section against a respondent who, in the performance of services authorized by the license held:

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the respondent or for another person;

(2) Fraudulently or deceptively uses a license;

(3) Is disciplined by any licensing or disciplinary authority, or convicted or disciplined by any court for conduct that would be grounds for disciplinary action pursuant to this chapter;

(4) Is convicted by any court of, or pleads guilty or nolo contendere to, a crime that bears directly on the fitness of the person to be licensed;

(5) Is mentally incompetent to practice or physically incapable of practicing the occupation for which the person is licensed;



(6) Willfully files or prepares a false document in the practice of an occupation;

(7) Willfully practices an occupation with an unauthorized individual, or aids or employs an unauthorized individual in the practice of an occupation;

(8) Refuses to provide service to a person in contravention of Chapter 25 of Title 1;

(9) Performs, offers, or attempts to perform services beyond the scope of those authorized by the license held, this chapter, or rules issued pursuant to this chapter;

(10) Demonstrates gross negligence with respect to the health or safety of a client, regardless of whether the client sustains actual injury as a result;

(11) Practices or attempts to practice an occupation while under the influence of alcohol or while using any narcotic or controlled substance as defined by Chapter 5 of Title 33, or while using any other drug in excess of medically prescribed amounts;

(12) Violates this chapter, a rule issued pursuant to this chapter, or other District law applicable to the occupations and salons regulated pursuant to this chapter, including laws regarding public health;

(13) Violates an order of, or an agreement, consent decree, or negotiated settlement entered into with, the Board, the Mayor, or a court;

(14) Fails or refuses to comply with a subpoena issued by the Board or the Mayor pursuant to this chapter;

(15) Fails or refuses to provide the Board or the Mayor with access to a salon or records of a salon;

(16) Fails or refuses to pay a civil fine imposed by the Board, the Mayor, or a court; or

(17) Fails to conform to standards of acceptable and prevailing practice within an occupation, as determined by the Board.

(b) Upon a determination by the Board that a respondent committed any of the acts described in subsection (a) of this section, the Board may:

(1) Deny a license to the respondent;

(2) Revoke or suspend the license of the respondent;

(3) Revoke or suspend the privilege to practice in the District of any respondent permitted by this chapter to practice in the District;

(4) Reprimand the respondent;

(5) Impose a civil fine not to exceed \$5,000 for each violation;

(6) Require a course of remediation, approved by the Board, that may include:

(A) Therapy or treatment;

(B) Retraining; and

(C) Reexamination in a manner prescribed by the Board;

(7) Require a period of probation; or

(8) Issue a cease and desist order pursuant to § 2-450.

(c) Nothing in this chapter shall preclude prosecution for a criminal violation of law regardless of whether the same violation has been or is the subject of 1 or more of the disciplinary actions provided by this chapter. Criminal prosecution may proceed prior to, simultaneously with, or subsequent to ad-

ministrative or civil action. (Mar. 17, 1993, D.C. Law 9-245, § 22, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

### § 2-442. Owners and managers.

(a) The owner and manager (including master barbers) of a salon employing an unlicensed individual practicing pursuant to this chapter shall be responsible for supervision of the practice of occupations in the owner's salon employing an unlicensed individual, and shall be subject to disciplinary action for violations of this chapter occurring in the course of the operation.

(b) The owner of a salon shall notify the Board in writing of any change in designated managers within 15 days of the change.

(c) The manager of a salon shall be responsible for the direct supervision of the practice of occupations in the salon, and for otherwise directing the operations of the salon, and shall be subject to disciplinary action for violations of this chapter occurring in the salon while on duty.

(d) The owner of a salon shall maintain a manager licensed by the Board on the premises during all hours of operation. (Mar. 17, 1993, D.C. Law 9-245, § 23, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

### § 2-443. Voluntary surrender of occupational license.

(a) A licensee who is the subject of an investigation into, or a pending proceeding involving allegations of, misconduct may voluntarily surrender his or her license or privilege to practice in the District by delivering to the Board an affidavit stating that the licensee desires to surrender the license or privilege and that the action is freely and voluntarily taken and not the result of duress or coercion.

(b) Upon receipt of an affidavit submitted pursuant to this section, the Board shall enter an order revoking or suspending the license or the privilege to practice.

(c) The voluntary surrender of a license shall not preclude the imposition of civil or criminal proceedings against the licensee. (Mar. 17, 1993, D.C. Law 9-245, § 24, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

**§ 2-444. Term and renewal of license.**

- (a) A license shall be issued for a period to be determined by the Mayor.
- (b) At least 30 days before the license expires, or a greater period as established by the Mayor by rule, the Board shall send to each licensee, by first class mail to the last known address of the licensee, a renewal notice that states:
  - (1) The date that the license expires;
  - (2) The date by which a renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and
  - (3) The amount of the renewal fee.
- (c) Before the license expires, a licensee may renew it if the licensee:
  - (1) Submits a timely application to the Board;
  - (2) Is otherwise entitled to be licensed; and
  - (3) Pays the renewal fee established by the Mayor. (Mar. 17, 1993, D.C. Law 9-245, § 25, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

**§ 2-445. Display of license; change of address.**

- (a) A licensee shall display the license conspicuously in all places of business or employment of the licensee.
- (b) A licensee shall notify the Board of any change of address of the licensee's place of residence, business, or employment within 30 days after the change of address. (Mar. 17, 1993, D.C. Law 9-245, § 26, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

**§ 2-446. Reinstatement of expired license.**

- (a) An applicant for reinstatement of an expired license shall:
  - (1) Establish to the satisfaction of the Board that the applicant meets the requirements for reinstatement of expired licenses as established by rule;
  - (2) Apply for reinstatement of the license within 5 years after the date of expiration of the license; and
  - (3) Pay a reinstatement fee established by the Mayor.
- (b) For purposes of subsection (a)(2) of this section, March 17, 1993, shall be deemed the expiration date of a license that expired prior to this chapter.
- (c) The Board shall not reinstate the license of any person who fails to apply for reinstatement of a license within 5 years after the license expires. The applicant may become licensed by meeting the requirements then in existence for obtaining an initial license under this chapter. (Mar. 17, 1993, D.C. Law 9-245, § 27, 40 DCR 660.)



**Legislative history of Law 9-245.** — See note to § 2-421.

## § 2-447. Reinstatement of revoked licenses.

An applicant for reinstatement of a license that has been revoked shall:

(1) Establish to the satisfaction of the Board regulating the occupation or salon that the applicant meets the requirements established by rule to ensure that the applicant is qualified for reinstatement, and that reinstatement of the license will not be detrimental to the public interest or the integrity of the occupation or type of salon; and

(2) Pay the reinstatement fee established by the Mayor. (Mar. 17, 1993, D.C. Law 9-245, § 28, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

## § 2-448. Hearings.

(a) Before denying a license or taking other disciplinary action against a respondent, the Board shall give the respondent an opportunity for a hearing before the Board, except where the denial of an occupational license is based solely on the respondent's failure to meet minimum qualifications.

(b) The Board may request respondents to attend a settlement conference and may enter into negotiated settlement agreements and consent decrees to carry out its functions.

(c) The Board shall send a notice of intended action or hearing by certified mail to the last known address of the respondent at least 15 days before the hearing.

(d) A respondent has the right to be represented by counsel at a hearing.

(e) The Board may administer oaths, require the attendance and testimony of witnesses, and the production of books, papers, and other evidence in connection with any proceeding pursuant to this section.

(f) In case of failure or refusal to obey a subpoena issued by the Board to any person, the Board may refer the matter to the Superior Court of the District of Columbia, which may by order require the person to appear and give testimony or produce books, papers, or other evidence bearing on the hearing. Refusal to obey such an order shall constitute contempt of court.

(g) If a respondent fails to request or appear at a hearing, the Board may issue a final decision without conducting a hearing.

(h) The Board shall issue a final decision in writing within 90 days after conducting a hearing or after the failure of a respondent to request or appear at a hearing.

(i) The Board may delegate its authority to conduct a hearing and issue a final decision to a panel of 3 members of the Board or to the Office of Adjudication of the Department of Consumer and Regulatory Affairs in accordance with rules issued pursuant to this chapter. (Mar. 17, 1993, D.C. Law 9-245, § 29, 40 DCR 660.)

**Section references.** — This section is referred to in § 2-450.

**Legislative history of Law 9-245.** — See note to § 2-421.

## § 2-449. Summary actions.

(a) If the Mayor determines, after investigation, that the conduct of a respondent presents an imminent danger to the public, the Mayor may summarily suspend or restrict, without a hearing, the respondent's license.

(b) The Mayor, at the time of a summary suspension or restriction of a license, shall provide the respondent with a written notice stating the action that is being taken, the basis for the action, and the right of the respondent to request a hearing.

(c) A respondent shall have the right to request a hearing within 15 days after service of a notice of summary suspension or restriction of the license. The Mayor shall hold a hearing within 3 days of receipt of timely request, and shall issue a decision within 3 days after the hearing. (Mar. 17, 1993, D.C. Law 9-245, § 30, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

## § 2-450. Cease and desist orders.

(a) When the Board or the Mayor, prior to a hearing, has cause to believe that a person is violating any provision of this chapter, or rules issued pursuant to this chapter, and the violation has caused or may cause immediate and irreparable harm to the public, the Board or the Mayor may issue an order requiring the alleged violator to cease and desist immediately from the violation. The order shall be served by certified mail or delivery in person.

(b)(1) An alleged violator may, within 15 days of the service of an order, submit a written request to the Board or the Mayor to hold a hearing on the alleged violation.

(2) Upon receipt of a timely request, the Board or the Mayor shall, within 30 days of receiving the request, serve an alleged violator with a written notice of hearing, conduct the hearing no more than 30 days after service of the hearing notice, and render a decision within 30 days after the hearing.

(c)(1) An alleged violator may, within 10 days of the service of an order, submit a written request to the Board or the Mayor for an expedited hearing on the alleged violation, in which case he or she shall waive his or her right to the 15-day notice required by § 2-448(c).

(2) The Board or the Mayor shall serve an alleged violator with a written notice of hearing no more than 5 days after the receipt of a timely request for an expedited hearing and shall conduct a hearing no less than 3 days after service of the hearing notice on the alleged violator and no more than 10 days after receipt of the request for an expedited hearing.

(3) The Board or the Mayor shall issue a decision within 30 days after an expedited hearing.

(d) If a request for a hearing is not made within 15 days of the service of an order, the order of the Board or the Mayor to cease and desist is final.

(e) If any person fails to comply with an order of the Board or the Mayor issued pursuant to this section, the Board or the Mayor may petition the Superior Court of the District of Columbia to issue an order compelling compliance or take any action authorized by this chapter. (Mar. 17, 1993, D.C. Law 9-245, § 31, 40 DCR 660.)

**Section references.** — This section is referred to in § 2-441.

**Legislative history of Law 9-245.** — See note to § 2-421.

## § 2-451. Judicial review.

A person aggrieved by a final decision of the Board or the Mayor may appeal the decision to the District of Columbia Court of Appeals pursuant to § 1-1510. (Mar. 17, 1993, D.C. Law 9-245, § 32, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

## § 2-452. Prohibited acts.

No person shall:

(1) Represent to the public by title, designation, descriptive material, or otherwise that the person is authorized to engage in activities for which a license is required pursuant to this chapter, unless the person is licensed or exempt from licensing pursuant to this chapter;

(2) Knowingly make a statement to the Board or the Mayor that is false or misleading;

(3) Knowingly file, or attempt to file, with the Board or the Mayor any submission that is false or misleading;

(4) Sell or fraudulently obtain or furnish any submission required by this chapter, or rules issued pursuant to this chapter, by the Board or by the Mayor; or

(5) Charge a fee to the public for services or materials used in connection with a sales demonstration of cosmetic preparations or other products or equipment for use in a practice regulated pursuant to this chapter. (Mar. 17, 1993, D.C. Law 9-245, § 33, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

## § 2-453. Criminal and civil sanctions.

(a) Any person who violates any provision of this chapter shall, upon conviction, be subject to imprisonment not to exceed 6 months, or a fine not to exceed \$1,000, or both. Each unlawful act shall constitute a separate violation of this chapter.

(b) Any person who has been previously convicted pursuant to this chapter shall, upon conviction, be subject to imprisonment not to exceed 1 year, or a fine not to exceed \$5,000, or both.



(c) Civil fines and penalties may be imposed as alternative sanctions for any violation of the provisions of this chapter, or rules issued under the authority of this chapter, pursuant to Chapter 27 of Title 6. The adjudication of any infraction issued pursuant to the Civil Infractions Act shall be pursuant to Chapter 27 of Title 6. (Mar. 17, 1993, D.C. Law 9-245, § 34, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.      tions Act” referred to in the second sentence of (c) is D.C. Law 6-42.

**References in text.** — The “Civil Infrac-

## § 2-454. Prosecutions.

(a) Prosecutions for violations of this chapter shall be brought by the Corporation Counsel in the name of the District.

(b) In prosecutions initiated pursuant to this chapter, a person claiming an exemption from a licensing requirement of this chapter shall have the burden of proving entitlement to the exemption. (Mar. 17, 1993, D.C. Law 9-245, § 35, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

## § 2-455. Injunctions.

(a) The Corporation Counsel may bring an action for injunctive relief in the Superior Court of the District of Columbia in the name of the District.

(b) Remedies established by this section are in addition to criminal sanctions, civil sanctions, and disciplinary action by the Board.

(c) In any proceeding pursuant to this section, it shall not be necessary to prove that any person is injured by the violation alleged. (Mar. 17, 1993, D.C. Law 9-245, § 36, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

## § 2-456. Regulations.

(a) The Mayor shall issue all rules necessary to implement the provisions of this chapter, including:

(1) The establishment of qualifications for licenses issued pursuant to this chapter;

(2) The establishment of minimum standards of practice for occupational licensees;

(3) The delineation of the scope of practice or responsibilities of occupational licensees, and any restrictions on practice activities;

(4) The establishment of minimum standards of operation for salon licensees, including health standards and requirements concerning facilities, equipment, staff, management, procedures, recordkeeping, and supervising individuals who are practicing without a license pursuant to § 2-435(a); and

(5) The addition of disciplinary grounds determined by the Mayor to be necessary for the protection of the public.

(b) The following regulations, to the extent they are consistent with and are not superseded by the provisions of this chapter, shall remain in effect until the Mayor issues rules pursuant to this chapter:

(1) The Regulations Concerning Barber Shops and the Practice of Barbering, issued March 9, 1961 (C.O. 61-412; 17 DCMR Chapter 37).

(2) The Regulations Governing Beauty Shops and the Practice of Cosmetology, issued June 23, 1955 (C.O. 55-1193; 17 DCMR Chapter 38). (Mar. 17, 1993, D.C. Law 9-245, § 39, 40 DCR 660.)

**Legislative history of Law 9-245.** — See note to § 2-421.

## CHAPTER 5. BONDING OF HOME IMPROVEMENT BUSINESS.

Sec.

2-501. Bonding of persons engaged in home improvement business; definitions.

2-502. Bond requirements.

2-503. Payment as defense to assertion of lien.

2-504. Penalty.

Sec.

2-505. Prosecutions to be conducted by Corporation Counsel.

2-506. Authority and power of Mayor deemed supplementary.

2-507. Severability.

### § 2-501. Bonding of persons engaged in home improvement business; definitions.

The Council of the District of Columbia is authorized, in connection with the licensing of persons engaged in the home improvement business, whether as principal, agent, salesman, employee, or otherwise, to require the furnishing of bond as a condition to the issuance of such license. For the purposes of this chapter, the term "home improvement business" means the repair, remodeling, alteration, conversion, or modernization of, or addition to, residential property, all as may be more particularly defined in regulations promulgated by the Council. Such bonding may be required notwithstanding the fact that a person may also be subject to the bonding requirements of any other law. (Sept. 6, 1960, 74 Stat. 815, Pub. L. 86-715, § 1; 1973 Ed., § 2-2301.)

**Cross references.** — As to Council's authority to regulate, modify, or eliminate license requirements, see § 47-2842.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(78) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**The purpose of licensing statutes** would be frustrated if recovery were permitted for work performed without a license, or when the contract is entered before the issuance of a license, or when some of the preliminary work is

done before a license is issued, and a balance of the work is completed after the license has issued. *Cevern, Inc. v. Ferbish*, 120 WLR 2645 (Super. Ct. 1992).

**Scope of section.** — This section applies to home improvement contracts in which the Department of Housing and Community Development is involved. *Erwin v. Craft*, App. D.C., 452 A.2d 971 (1982).

**Home improvement regulations.** — The Home Improvement Regulations govern only agreements for the performance of home improvement work, and are limited to agreements which provide for the actual "delivery" of a finished project. *Karr v. C. Dudley Brown & Assocs.*, App. D.C., 567 A.2d 1306 (1989).

**Home improvement contractor.** — Defendant did not act as a home improvement contractor where he explicitly cast himself in the role of advisor, refused to accept plaintiff's offer to become general contractor, and limited work he performed on renovation was not required by the contractor. *Karr v. C. Dudley Brown & Assocs.*, App. D.C., 567 A.2d 1306 (1989).

**Statute of limitations.** — The provisions for the licensing of home improvement contractors, § 2-501 et seq., do not contain their own statute of limitations or provide that no statute of limitations shall apply. Therefore, the general limitations statute, § 12-301(8), would ordinarily apply. *Woodruff v. McConkey*, App. D.C., 524 A.2d 722 (1987).



**Accrual of cause of action.** — Although a violation of the home improvement license regulations occurs when the contractor enters a home improvement contract which requires advance payment, the cause of action cannot accrue until the homeowner has made a payment; until that time there is no money to recover, and hence no injury or cause of action. Any other interpretation would lead to the untenable result that a homeowner who makes a

payment more than 3 years from the making of the contract would be barred from any recovery. *Woodruff v. McConkey*, App. D.C., 524 A.2d 722 (1987).

Cited in *Hoffheins v. Heslop*, App. D.C., 210 A.2d 841 (1965); *Pitts v. Ruffin*, 110 WLR 921 (Super. Ct.); *Capital Constr. Co. v. Plaza W. Coop. Ass'n*, App. D.C., 604 A.2d 428 (1992).

## § 2-502. Bond requirements.

(a) The Council of the District of Columbia may, from time to time, and in its discretion, establish classes and subclasses of persons licensed to engage in the home improvement business and specify the amount and conditions of the bond or other security acceptable to the Council to be deposited by each of the members of any such class or subclass. In connection with the licensing of persons to engage in the home improvement business, and the bonding of the members of any such class or subclass of such persons, the Council, in its discretion, may by regulation require applicants for licenses or licensees:

(1) To furnish and keep in force a bond or bonds running to the District, or other security acceptable to the Council, to protect members of the public against financial loss by reason of the failure of the licensee or of any officer, agent, employee, salesman, or other person acting on behalf of said licensee, to observe any law or regulation in force in the District of Columbia applicable to the licensee's conduct of the licensed business;

(2) To procure and keep in force public liability insurance or property damage insurance, or both; and

(3) To appoint the Mayor as their true and lawful attorney upon whom all judicial and other process or legal notice directed to such person may be served.

(b) The bonds authorized by this section shall be corporate surety bonds in amounts to be fixed by the Council, but no bond shall exceed \$25,000, and such bond shall be conditioned upon the observance by the licensee and any officer, agent, employee, salesman, or other person acting on behalf of said licensee, of all laws and regulations in force in the District applicable to the licensee's conduct of the licensed business, for the benefit of any person who may suffer damages resulting from the violation of any such law or regulation by or on the part of such licensee or any officer, agent, employee, salesman, or other person acting on behalf of the licensee.

(c) Any person aggrieved by the violation of any law or regulation applicable to the licensee's conduct of the licensed activity shall have, in addition to his right of action against such licensee, a right to bring suit against the surety on a bond authorized by this section, either alone or jointly with the principal thereon, and to recover in an amount not exceeding the penalty of the bond any damages sustained by reason of any act, transaction, or conduct of the licensee, or of any officer, agent, employee, salesman, or other person acting on behalf of said licensee, which is in violation of law or regulation in force in the District relating to the licensed activity. The provisions of the

second, third, and fifth paragraphs of subsection (b) of § 1-337 shall be applicable to each bond authorized by this section as if it were the bond authorized by the first paragraph of such subsection (b) of § 1-337; provided, that nothing in this subsection shall be construed to impose upon the surety on any such bond a greater liability than the total amount thereof or the amount remaining unextinguished after any prior recovery or recoveries. (Sept. 6, 1960, 74 Stat. 815, Pub. L. 86-715, § 2; 1973 Ed., § 2-2302.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(79, 80) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**Chapter to be broadly construed.** — This chapter is remedial legislation designed for protection of the homeowner, and should be broadly construed to effectuate its purpose. *Bathroom Design Inst. v. Parker*, App. D.C., 317 A.2d 526 (1974).

**But it cannot be construed to impose liability beyond proofs made at trial.** *Bathroom Design Inst. v. Parker*, App. D.C., 317 A.2d 526 (1974).

**One should be considered subject to criminal prosecution** if there appear facts that in court's opinion would constitute a prima facie case of violation of any criminal statute committed in connection with improvement contract or of a pertinent home improvement regulation that carries a criminal penalty. *Gilliam v. Travelers Indem. Co.*, App. D.C., 281 A.2d 429 (1971).

**Surety's liability where contractor subject to criminal prosecution.** — Where the president and major stockholder of a corporate home improvement contractor collected prepayment on a contract and absconded without completing work, subjecting himself to criminal prosecution, his surety was liable on home improvement bond. *Gilliam v. Travelers Indem. Co.*, App. D.C., 281 A.2d 429 (1971).

**Liability for amount prepaid to unlicensed contractor.** — Where a contractor unlicensed in the District of Columbia received money from homeowners to waterproof their basement and failed to perform, the contractor was liable for amount received, and his surety on the performance bond was likewise liable for same amount. *Bathroom Design Inst. v. Parker*, App. D.C., 317 A.2d 526 (1974).

**Surety held not liable for householder's interest on loan.** — Under this section, the surety upon a contractor's performance bond was not liable for the interest paid by householders as the result of a loan which they themselves obtained from a lender. *Bathroom Design Inst. v. Parker*, App. D.C., 317 A.2d 526 (1974).

**Contract with unlicensed contractor held unenforceable.** — A contract between homeowners and a contractor, who was unlicensed in District of Columbia, for waterproofing a basement in the District, was void and unenforceable. *Bathroom Design Inst. v. Parker*, App. D.C., 317 A.2d 526 (1974).

**Recovery for services by unlicensed contractor.** — The work performed by an unlicensed contractor was performed in contravention of regulations designed for regulatory purposes in exercise of police power, and there was no equitable basis upon which quasi-contractual recovery could be predicated. *Bathroom Design Inst. v. Parker*, App. D.C., 317 A.2d 526 (1974).

**Cited in Capital Constr. Co. v. Plaza W. Coop. Ass'n**, App. D.C., 604 A.2d 428 (1992).



### § 2-503. Payment as defense to assertion of lien.

In any case in which a property owner or occupant has entered into a contract with a person offering to perform or to arrange for the performance of home improvement work, and such property owner or occupant makes payment for such work to the person offering to perform or arrange for the performance of the same, proof of such payment shall constitute a defense against, and render void, any lien sought to be asserted under the authority of §§ 38-101 to 38-103. (Sept. 6, 1960, 74 Stat. 816, Pub. L. 86-715, § 3; 1973 Ed., § 2-2303.)

### § 2-504. Penalty.

Any person who shall violate any provision of this chapter or of any regulation promulgated by the Mayor under the authority of this chapter shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$300 or by imprisonment for not more than 90 days, or both. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this chapter shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (Sept. 6, 1960, 74 Stat. 816, Pub. L. 86-715, § 4; 1973 Ed., § 2-2304; Oct. 5, 1985, D.C. Law 6-42, § 433(a), 32 DCR 4450.)

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401

of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

Cited in *Baker v. District of Columbia*, App. D.C., 494 A.2d 1299 (1985).

### § 2-505. Prosecutions to be conducted by Corporation Counsel.

Prosecutions for violations of this chapter, or of the regulations made pursuant thereto, shall be conducted in the name of the District by the Corporation Counsel or any of his assistants. As used in this chapter, the term "Corporation Counsel" means the attorney for the District, by whatever title such attorney may be known, designated by the Mayor to perform the functions



prescribed for the Corporation Counsel in this chapter. Adjudication of civil infractions shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (Sept. 6, 1960, 74 Stat. 816, Pub. L. 86-715, § 5; 1973 Ed., § 2-2305; Oct. 5, 1985, D.C. Law 6-42, § 433(b), 32 DCR 4450.)

**Legislative history of Law 6-42.** — See note to § 2-504.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and

Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

Cited in *Baker v. District of Columbia*, App. D.C., 494 A.2d 1299 (1985).

## § 2-506. Authority and power of Mayor deemed supplementary.

The authority and power vested in the Mayor by any provision of this chapter shall be deemed to be additional and supplementary to authority and power now vested in him, and not as a limitation. (Sept. 6, 1960, 74 Stat. 816, Pub. L. 86-715, § 6; 1973 Ed., § 2-2306.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and

Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-507. Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or the application of this chapter which can be effected without the invalid provision or application, and to this end the provisions of this chapter are severable. (Sept. 6, 1960, 74 Stat. 816, Pub. L. 86-715, § 7; 1973 Ed., § 2-2307.)

## CHAPTER 6. BOXING AND WRESTLING COMMISSION.

Sec.	Sec.
2-601. Purpose.	2-607. Administration.
2-602. Definitions.	2-608. Violations of Commission rules; penalties.
2-603. Statement of authority.	2-609. Liability of Commission members.
2-604. Establishment of Commission.	2-610. Protective equipment; rules.
2-605. Jurisdiction.	
2-606. Powers.	

## § 2-601. Purpose.

It is the purpose of this chapter to create a Boxing and Wrestling Commission for the District of Columbia with the authority to promulgate rules and regulations, to promote the District of Columbia as a location for boxing, wrestling and martial arts events, and to regulate boxing and wrestling within its jurisdiction. (1973 Ed., § 2-1231; Oct. 8, 1975, D.C. Law 1-20, § 2, 23 DCR 1806; Feb. 26, 1976, D.C. Law 1-50, § 3, 22 DCR 5127; Sept. 29, 1988, D.C. Law 7-169, § 2(a), 35 DCR 5749.)

**Legislative history of Law 1-20.** — Law 1-20, the "Boxing and Wrestling Commission Act of 1975," was introduced in Council and assigned Bill No. 1-26, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on June 3, 1975, and June 17, 1975, respectively. Signed by the Mayor on July 11, 1975, it was assigned Act No. 1-31 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 1-50.** — Law 1-50, the "District of Columbia Boxing and Wrestling Commission Act — Amendment of 1976," was introduced in Council and assigned Bill No. 1-168, which was referred to the Committee on Government Operations. The Bill

was adopted on first and second readings on October 21, 1975 and November 4, 1975, respectively. Signed by the Mayor on November 20, 1975, it was assigned Act No. 1-70 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-169.** — Law 7-169, the "District of Columbia Boxing and Wrestling Commission Act Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-493, which was referred to the Committee of Public Services. The Bill was adopted on first and second readings on June 28, 1988 and July 12, 1988, respectively. Signed by the Mayor on July 15, 1988, it was assigned Act No. 7-225 and transmitted to both Houses of Congress for its review.

## § 2-602. Definitions.

For purposes of this chapter, the term or terms:

(1) "Person" means an individual, partnership, corporation, association, or club.

(2) "Mayor" and "Council" have the meanings given in § 1-202.

(3) "Commission" means the District of Columbia Boxing and Wrestling Commission.

(4) "School, college, or university" means every school, college, or university supported in whole or in part from public funds and every other school, college or university supported in whole or in part by a religious, charitable, scientific, literary, educational, or fraternal organization which is not operated for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(5) "Participants" means all boxers, wrestlers, performers of martial arts, seconds, managers, matchmakers, promoters, referees, judges, timekeepers, announcers, ushers, ticket sellers, advertising and public relations personnel, and other persons that the Commission may designate who are involved or connected with, other than as a spectator, boxing, wrestling or martial arts contests, matches, exhibitions, or showings, professional as well as amateur, to be held, given, or shown within the District of Columbia.

(6) Repealed by D.C. Law 6-137. (1973 Ed., § 2-1232; Oct. 8, 1975, D.C. Law 1-20, § 3, 23 DCR 1806; Feb. 26, 1976, D.C. Law 1-50, § 3, 22 DCR 5127; Aug. 13, 1986, D.C. Law 6-137, § 2(a), 33 DCR 3798.)

**Legislative history of Law 1-20.** — See note to § 2-601.

**Legislative history of Law 6-137.** — See note to § 2-610.

### § 2-603. Statement of authority.

The authority of the Council to establish a Boxing and Wrestling Commission is granted in subsections (a) and (b) of § 1-227. (1973 Ed., § 2-1233; Oct. 8, 1975, D.C. Law 1-20, § 4, 23 DCR 1807.)

**Legislative history of Law 1-20.** — See note to § 2-601.

### § 2-604. Establishment of Commission.

(a) There is hereby created a District of Columbia Boxing and Wrestling Commission to consist of 3 members nominated by the Mayor and approved by the Council.

(b) Other than as provided in subsection (g) of this section, the term of office of a member of the Commission shall be 3 years.

(c) Whenever a vacancy on the Commission occurs before the end of a term, the Mayor, with the consent of the Council, may appoint a person to complete the remaining period of that term.

(d) A Commission member may be removed by resolution of the Council:

(1) For good cause shown; or

(2) Upon the written recommendation of the Mayor.

(e) The members of the Commission shall be residents of the District of Columbia for the duration of their term.

(f) The members of the Commission shall receive compensation pursuant to the provisions of § 1-612.8.

(g) The Mayor shall, within 30 days of October 8, 1975, nominate an individual to serve as Chairperson of the Commission for 3 years, and 2 more individuals to serve as members for 2 years, and 1 year respectively. The Council shall confirm or reject these nominees within 90 days of their nomination, or, in the absence of such action, within 90 days, such nominees shall be deemed confirmed. When at least 2 members have been confirmed, the Commission shall be deemed established. (1973 Ed., § 2-1234; Oct. 8, 1975, D.C. Law 1-20, § 5, 23 DCR 1808; June 9, 1976, D.C. Law 1-66, § 2, 23 DCR 498;



Mar. 3, 1979, D.C. Law 2-139, § 3205(mm), 25 DCR 5740; Aug. 7, 1980, D.C. Law 3-81, § 2 (gg), 27 DCR 2632.)

**Cross references.** — As to effective date of D.C. Law 2-139, see § 1-637.1.

**Section references.** — This section is referred to in §§ 1-637.1 and 1-1462.

**Legislative history of Law 1-20.** — See note to § 2-601.

**Legislative history of Law 1-66.** — Law 1-66, the "District of Columbia Boxing and Wrestling Commission Nominee Confirmation Procedure Act of 1976," was introduced in Council and assigned Bill No. 1-219, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on January 27, 1976, and February 24, 1976, respectively. No action taken by the Mayor, it was assigned Act No. 1-98 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 2-139.** — Law 2-139, the "District of Columbia Government Comprehensive Merit Personnel Act of 1978,"

was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 3-81.** — Law 3-81, the "District of Columbia Government Comprehensive Merit Personnel Act Amendments of 1980," was introduced in Council and assigned Bill No. 3-236, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 22, 1980 and May 20, 1980, respectively. Signed by the Mayor on June 4, 1980, it was assigned Act No. 3-195 and transmitted to both Houses of Congress for its review.

## § 2-605. Jurisdiction.

(a) The Commission shall have and hereby is vested with the sole direction, management, control, and jurisdiction over all boxing, wrestling, and martial arts contests, matches, exhibitions, and showings, professional as well as amateur, to be conducted, held, given, or shown within the District of Columbia. The Commission is hereby given control, authority, and jurisdiction over all licenses and permits to hold boxing, wrestling, and martial arts contests, matches, and exhibitions for prizes or purses or in which a fee or price in money or value is charged or for which revenue of any type is received, and over all licenses or permits to participants in boxing, wrestling, or martial arts contests, matches or exhibitions; this section shall not be construed, however, to preclude the Commission from differentiating between professional and amateur contests, matches, and exhibitions and charitable and profit-seeking ventures on a reasonable basis. The Commission shall establish the criteria and procedures for the granting of licenses and permits under its jurisdiction and shall promulgate such criteria in accordance with Chapter 15 of Title 1.

(b) The Commission may exempt schools, colleges, or universities and similar amateur events from any and all of its rules upon proper application by such school, college, or university or by the manager or promoter of such amateur event. (1973 Ed., § 2-1235; Oct. 8, 1975, D.C. Law 1-20, § 6, 23 DCR 1809; Feb. 26, 1976, D.C. Law 1-50, § 3, 22 DCR 5127; Sept. 29, 1988, D.C. Law 7-169, § 2(b), 35 DCR 5749.)

**Legislative history of Law 1-20.** — See note to § 2-601.

**Legislative history of Law 1-50.** — See note to § 2-601.

Legislative history of Law 7-169. — See note to § 2-601.

**§ 2-606. Powers.**

(a) The Commission shall have the power to make, amend, carry out, and enforce such rules as it deems necessary for and likely to be effective in governing the events and procedures within its jurisdiction as well as all participants in such events and procedures. The Commission shall conduct its rulemaking and enforcement and other functions under the provisions of Chapter 15 of Title 1 where appropriate, and shall promulgate rules within 60 days of its establishment.

(b) The Commission shall have the power to issue permits and licenses to all participants, and for all events covered by this chapter. If the Commission, by rule, regulation, or order requires a license for a person or event covered by this chapter, no person shall hold, conduct, or be a participant in any such boxing, wrestling, or martial arts contest, match, or exhibition without a permit or license from the Commission. The Commission is authorized, in its sole judgment and discretion, to assign to those with proper permits, dates on which boxing, wrestling, and martial arts contests, matches, and exhibitions may be held, and no person shall hold any boxing, wrestling, or martial arts contest, match, or exhibition on any dates unless specifically authorized to do so by the Commission. No permit as described in this section shall be issued to any person unless such person agrees to accord to the Commission the right to examine the books of account and other records of such person relative to the boxing, wrestling, or martial arts contest, match, or exhibition for which such permit is issued, and such permit shall so state on its face. Licenses and permits may be revoked or suspended by the Commission for violation of any rule, regulation, or order of the Commission or for violation of any rule, regulation, or order of the District of Columbia or for other cause. The contested case provisions of §§ 1-1509 and 1-1510 shall be followed in revocation and suspension proceedings.

(c) The Commission shall have the power to collect fees for permits and licensure in an amount and in a manner that is reasonable in light of costs of administration and like charges imposed by other jurisdictions for similar licenses and that it shall determine with the approval of the Mayor.

(d) The Commission shall have the power to require all licensees and permittees to execute and file with the Commission a bond in an amount to be determined by the Commission before such license or permit may be granted. Said bond shall be approved as to form and sufficiency of sureties by the Mayor, or by such official as he may designate. In case of default in such performance, recovery may be had on such bond in the same manner as other penalties are recovered by law.

(e) The Commission shall have the power to establish standards for, and the permitted circumstances of, rental or ownership of the premises where events within the jurisdiction of the Commission will or may occur. The Commission may also establish standards for all equipment of the Commission.

The Commission may also provide for the inspection of such premises and equipment.

(f) The Commission shall have the power to assess nonlicense fees and fines payable to the Commission under this chapter or the Commission rules, and to require reports and manifests to be furnished the Commission relating to nonlicense fees.

(g) The Commission shall have the power to employ such personnel as is necessary to carry out this chapter.

(h) Each member of the Commission shall have the power to administer oaths and affirmations and examine witnesses concerning any matters within the jurisdiction of the Commission. The Commission shall be vested with power to issue subpoenas as to matters within its jurisdiction and enforce the same in the Superior Court of the District of Columbia.

(i) The Commission shall have the power to investigate all operations, occurrences, events, and persons within its jurisdiction, and any suspected violation of its orders or rules, or of this chapter.

(j) The Commission shall have the power to issue such orders (including suspensions of licenses and permits) to persons within its jurisdiction, which reasonably will:

(1) Assure compliance with this chapter, or the Commission's rules or orders;

(2) Prevent influence of organized crime in boxing and wrestling in the District of Columbia; or

(3) Encourage boxing and wrestling in the District.

(k) The Commission shall have the power, subject to the approval of the Mayor, to make or engage in contracts, agreements, or cooperative work with other District of Columbia agencies, or commissions or agencies of other states or cities governing boxing or wrestling, or private persons, when such contracts, agreements, or cooperative work will reasonably and lawfully carry out the purposes of this chapter.

(l) The Commission shall have the power to establish other rules and regulations concerning events and persons within its jurisdiction as it deems appropriate to encourage boxing and wrestling in the District of Columbia and for other purposes consistent with this chapter.

(m)(1) The Commission shall, pursuant to subchapter I of Chapter 15 of Title 1, issue rules to establish standards for the operation of gymnasiums and other facilities used in the training of boxers, wrestlers, kickboxers, and practitioners of martial arts, shall implement these rules, and shall license all facilities as well as inspect all facilities and equipment subject to this subsection.

(2) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by subchapter I of Chapter 15 of Title 1. (1973 Ed., § 2-1236; Oct. 8, 1975, D.C. Law 1-20, § 7, 23 DCR 1810;



Feb. 26, 1976, D.C. Law 1-50, § 3, 22 DCR 5127; Mar. 3, 1979, D.C. Law 2-139, § 3205(II), (mm), 25 DCR 5740; Sept. 29, 1988, D.C. Law 7-169, § 2(c), 35 DCR 5749.)

**Cross references.** — As to effective date of D.C. Law 2-139, see § 1-637.1.

**Section references.** — This section is referred to in §§ 1-637.1 and 2-608.

**Legislative history of Law 1-20.** — See note to § 2-601.

**Legislative history of Law 1-50.** — See note to § 2-601.

**Legislative history of Law 2-139.** — See note to § 2-604.

**Legislative history of Law 7-169.** — See note to § 2-601.

## § 2-607. Administration.

(a) All receipts of the Commission shall be deposited to the General Fund.

(b) Every person holding or conducting an event within the jurisdiction of the Commission shall file with the Commission, within 24 hours after the event is over, a report concerning fees, prices, revenues, and gross receipts from the event at the time and in the form prescribed by the Commission; however, this shall not preclude the Commission from demanding manifests or reports at an earlier time. Such person shall pay to the Commission, at the time of the filing of the report, a fee of 5 per centum of the gross receipts realized by such person as a result of holding or conducting the event except that the Commission may require the amount so collected be not less than that necessary for the payment of compensation to the personnel necessary to conduct such contest, match or exhibition. Each ticket of admission to any covered event shall bear clearly upon its face its price.

(c)(1) Every person presenting or showing any boxing or wrestling match, contest, or exhibition on closed circuit telecast or subscription television viewed within the District, whether or not originating within the District, shall, within 72 hours excluding Saturdays, Sundays, and legal holidays after the presentation or showing is over:

(A) File with the Commission a report stating the exact number of tickets sold for the presentation or showing and the gross receipts from the presentation or showing or, if no tickets are sold, the price in money or value paid or owed for the presentation or showing, and any other information the Commission may require; and

(B) Pay to the Commission a fee of 5% of the first \$100,000 of the gross receipts from, or price paid or owed for, the presentation or showing and 2% of any gross receipts or price paid or owed in excess of \$100,000.

(2) Notwithstanding paragraph (1) of this subsection, the Commission may seek an advance payment for a presentation or showing when it deems an advance payment to be appropriate.

(d) The Commission may also charge such other nonlicense fees as are reasonable in amount for services it renders in carrying out its lawful functions.

(e) The Commission shall report quarterly to the Mayor and to the Council on its official acts and its efforts to promote the District of Columbia as a location for boxing, wrestling, and martial arts events. The Commission shall

make recommendations, as it deems appropriate, to further the promotion of the District of Columbia as a location for boxing, wrestling, and martial arts events and to promote the effective regulation of professional and amateur boxing, wrestling, and martial arts events that are conducted or shown within the District of Columbia.

(f) The District of Columbia Auditor shall conduct an annual audit of the Commission.

(g) The Mayor shall conduct quarterly audits of the Commission and furnish the Commission with such office space as it needs and with administrative aid as the Commission may request. (1973 Ed., § 2-1237; Oct. 8, 1975, D.C. Law 1-20, § 8, 23 DCR 1815; Feb. 26, 1976, D.C. Law 1-50, § 3, 22 DCR 5127; June 14, 1980, D.C. Law 3-70, § 7(e), 27 DCR 1776; Aug. 13, 1986, D.C. Law 6-137, § 2(b), 33 DCR 3798; Sept. 29, 1988, D.C. Law 7-169, § 2(d), 35 DCR 5749.)

**Cross references.** — As to General Fund, see § 47-130.

**Section references.** — This section is referred to in § 2-608.

**Legislative history of Law 1-20.** — See note to § 2-601.

**Legislative history of Law 1-50.** — See note to § 2-601.

**Legislative history of Law 3-70.** — Law 3-70, the "District of Columbia Fund Accounting Act of 1980," was introduced in Council and assigned Bill No. 3-197, which was re-

ferred to the Committee on Human Services. The Bill was adopted on first and second readings on March 18, 1980 and April 1, 1980, respectively. Signed by the Mayor on April 25, 1980, it was assigned Act No. 3-176 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-137.** — See note to § 2-610.

**Legislative history of Law 7-169.** — See note to § 2-601.

## § 2-608. Violations of Commission rules; penalties.

(a) Any person who holds any boxing, wrestling, or martial arts contest, match or exhibition in the District of Columbia, or engages or participates in a boxing, wrestling, or martial arts contest, match, or exhibition without a valid license or permit effective at the time as provided in § 2-606(b), shall, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than 1 year, or both. Such cases shall be prosecuted by the Corporation Counsel of the District of Columbia in the Superior Court of the District of Columbia.

(b) In the case of a person who is found by a preponderance of the evidence, under the contested case procedure in the District of Columbia Administrative Procedure Act, in a hearing before the Commission, to have violated lawful orders or rules of the Commission other than those penalized by subsection (a) of this section, the Commission may, upon findings explaining its actions:

(1) Revoke the licenses previously obtained by such person under the Commission rules;

(2) Consider the violation as grounds for future license denials against such person;

(3) Levy a fine in the amount of \$1,000 or less;

(4) Refer the case to Corporation Counsel for further prosecution; or

(5) Make such other orders as are reasonable and just, restricting or directing the violator's actions in regard to boxing, wrestling or the martial arts in the District of Columbia.

(c) For failure to file the reports or pay the fees required in subsections (b) and (c) of § 2-607, a fine amounting to 10% of the fees due under that section, up to a maximum of 30% thereof, shall be assessed for each month or part thereof in which such required reports are not filed, or fees paid.

(d) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this chapter shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (1973 Ed., § 2-1238; Oct. 8, 1975, D.C. Law 1-20, § 9, 23 DCR 1817; Feb. 26, 1976, D.C. Law 1-50, § 3, 22 DCR 5127; Oct. 5, 1985, D.C. Law 6-42, § 423, 32 DCR 4450; Sept. 29, 1988, D.C. Law 7-169, § 2(e), 35 DCR 5749.)

**Cross references.** — As to power of Commission to assess nonlicense fees and fines, see § 2-606.

**Legislative history of Law 1-20.** — See note to § 2-601.

**Legislative history of Law 1-50.** — See note to § 2-601.

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Commit-

tee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-169.** — See note to § 2-601.

**References in text.** — The "District of Columbia Administrative Procedure Act," referred to in subsection (b), is Chapter 15 of Title 1.

## § 2-609. Liability of Commission members.

(a) A member of the Commission shall not knowingly participate in any action of the Commission if such member, or the member's spouse, parent, grandparent, child, grandchild, brother, sister, uncle, aunt, cousin, nephew or niece, has a financial or business interest in the action.

(b) A member shall not be liable in damages or court costs for any action of the Commission performed in good faith. (1973 Ed., § 2-1239; Oct. 8, 1975, D.C. Law 1-20, § 10, 23 DCR 1818.)

**Legislative history of Law 1-20.** — See note to § 2-601.

## § 2-610. Protective equipment; rules.

(a) All contestants competing in any amateur boxing, wrestling, or martial arts match, contest, or exhibition in the District of Columbia shall be properly fitted with and shall at all times during the contest wear protective headgear approved by the Commission.

(b) All contestants competing in any amateur boxing, martial arts, or other sporting event traditionally utilizing padded gloves shall use thumbless or thumb attached padded gloves approved by the Commission.



(c) Every amateur or professional boxing, wrestling, or martial arts match, contest, or exhibition conducted in the District of Columbia shall utilize protective floor padding, and in the case of matches, contests, or exhibitions performed in a ring, padded corner posts and padded ropes approved by the Commission.

(d) The Commission is hereby directed and authorized to promulgate any reasonable rule it may deem necessary to effectuate the purposes of this section, including but not limited to the issuance of rules relating to the type and construction of equipment approved for use in an event covered by this section, the inspection of equipment required by this section prior to the holding of a match, contest, or exhibition covered by this section, and the denial, suspension, or revocation of any authority, license, or permit to conduct any event or events covered by this section for reason of noncompliance with the requirements of this section or rules promulgated by the Commission pursuant to the authority of this section. (Oct. 8, 1975, D.C. Law 1-20, § 11, as added Aug. 13, 1986, D.C. Law 6-137, § 3, 33 DCR 3798 as amended Feb. 24, 1987, D.C. Law 6-192, § 3, 33 DCR 7836.)

**Legislative history of Law 6-137.** — Law 6-137, the "Boxing and Wrestling Commission Act Amendment Act of 1986," was introduced in Council and assigned Bill No. 6-364, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 27, 1986, and June 10, 1986, respectively. Signed by the Mayor on June 13, 1986, it was assigned Act No. 6-175 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-192.** — Law 6-192, the "Technical Amendments Act of 1986," was introduced in Council and assigned Bill No. 6-544, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 5, 1986, and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

CHAPTER 7. CHARITABLE SOLICITATIONS.

Sec.	Sec.
2-701. Definitions.	2-709. Advisory committee.
2-702. Powers of Mayor and Council.	2-710. Regulations.
2-703. Certificate of registration — Required; exception.	2-711. Registered solicitor's use of name of other person; publication of names of contributors.
2-704. Same — Application; issuance.	2-712. Penalties; prosecutions; actions to enjoin.
2-705. Solicitor information cards.	2-713. Severability.
2-706. Report of contributions secured.	2-714. Appropriations.
2-707. Representations as to finding by Mayor in regard to registration certificate or solicitor card prohibited.	
2-708. Compensation for telephone solicitation prohibited.	

§ 2-701. Definitions.

As used in this chapter:

(1) The term "Mayor" means the Mayor of the District of Columbia, sitting as a board, or any agent or agency designated by him to perform any function vested in the Mayor by this chapter.

(2) The term "registrant" means the holder of a valid certificate of registration duly issued under the terms of this chapter.

(3)(A) "Solicit" and "solicitation" mean the request directly or indirectly for any contribution on the plea or representation that such contribution will or may be used for any charitable purpose, and also mean and include any of the following methods of securing contributions:

(i) Oral or written request;

(ii) The distribution, circulation, mailing, posting, or publishing of any handbill, written advertisement, or publication;

(iii) The making of any announcement to the press, over the radio, by television, by telephone, or telegraph concerning an appeal, assemblage, athletic or sports event, bazaar, benefit, campaign, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale, or social gathering, which the public is requested to patronize or to which the public is requested to make a contribution; or

(iv) The sale of, offer, or attempt to sell, any advertisement, advertising space, book, card, magazine, merchandise, subscription, ticket of admission, or any other thing, or where the name of any charitable person is used or referred to in any such appeal as an inducement or reason for making any such sale, or, when or where in connection with any such sale, any statement is made that the whole or any part of the proceeds from any such sale will go or be donated to any charitable purpose.

(B) A "solicitation" as defined in this paragraph shall be deemed completed when made, whether or not the person making the same receives any contribution or makes any such sale.

(4) "Charitable" means and includes philanthropic, social service, patriotic, welfare, benevolent, or educational (except religious education), either actual or purported.

(5) "Contribution" means and includes alms, food, clothing, money, subscription, credit, property, financial assistance, or donations under the guise of a loan of money or property.

(6) "Person" means any individual, firm, copartnership, corporation, company, association, or joint stock association, church, religious sect, religious denomination, society, organization, or league, and other similar representative thereof. (July 10, 1957, 71 Stat. 278, Pub. L. 85-87, § 2; 1973 Ed., § 2-2101.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and

Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-702. Powers of Mayor and Council.

(a) The Mayor and the Council of the District of Columbia are authorized and empowered:

- (1) To administer and enforce the provisions of this chapter;
- (2) To investigate the allegations of any application for a certificate of registration;
- (3) To have access to and inspect and make copies of all the financial books, records, and papers of any person making any solicitation or on whose behalf any solicitation is made;
- (4) To investigate at any time the methods of making or conducting any solicitation;
- (5) To issue a certificate of registration to any person filing an application pursuant to this chapter;
- (6) To suspend or revoke any certificate of registration or solicitor information card, on the ground that the holder of such certificate or card has violated any provision of this chapter or any regulation promulgated pursuant thereto. The Mayor shall give to the interested person or persons an opportunity for a hearing after reasonable notice thereof before suspending or revoking any such certificate or card;
- (7) To prescribe by regulation the form of and the information to be contained in the solicitor information cards required by this chapter, and to prescribe the manner of reproduction and authentication of such cards; and
- (8) To publish, in any manner he deems appropriate, the results of any investigation authorized by this chapter. The Mayor shall, in publishing the results of any such investigation, have power to publish information concerning the officers and members of the governing board of any organization coming within the purview of this chapter: Provided, that such information shall not include membership and contribution lists of any such organization.



(b) The Mayor is authorized to prescribe and collect fees for the filing of applications, issuance of certificates of registration, and any other service which this chapter authorizes to be performed by the Mayor. The Mayor shall fix such fees in such amounts as will, in his judgment, approximate the cost to the District of Columbia of such services. In fixing such fees the Mayor may, in his discretion, prescribe either uniform fees or varying schedules of fees based on actual or estimated amounts solicited or to be solicited by registrants or applicants for certificates of registration. No fees may be fixed pursuant to this section until after a public hearing has been held thereon pursuant to reasonable notice thereof. (July 10, 1957, 71 Stat. 278, Pub. L. 85-87, § 3; 1973 Ed., § 2-2102.)

**Cross references.** — As to Council's authority to promulgate regulations to carry out chapter, see § 2-710.

**Editor's notes.** — The introductory language of (a) formerly contained the phrase "with respect to paragraph (7) of this subsection" following "the Council of the District of Columbia." This phrase first appeared in the 1973 Edition of the District of Columbia Code, but did not appear in prior codifications. No legislative record of the insertion of this phrase having been found, it has been deleted pursuant to the direction of the Office of Codification Counsel.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Govern-

mental Organization in Volume 1). Section 402(74) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-703. Certificate of registration — Required; exception.

(a) No person shall solicit in the District of Columbia unless he holds a valid certificate of registration authorizing such solicitation.

(b) The provisions of this chapter shall not apply to any person making solicitations, including solicitations for educational purposes, solely for a church or a religious corporation or a corporation or an unincorporated association under the supervision and control of any such church or religious corporation; provided, that such church, religious corporation, corporation, or unincorporated association is an organization which has been granted exemption from taxation under the provisions of § 501 of the Internal Revenue Code of 1986 (26 U.S.C. § 501); provided further, that such exemption from the provisions of this chapter shall be in effect only so long as such church, religious corporation, corporation, or unincorporated association shall be exempt from taxation under the provisions of § 501 of the Internal Revenue Code of 1986.

(c) The provisions of subsection (a) of this section and §§ 2-704, 2-705, 2-706, and 2-708 shall not apply to any person making solicitations:

- (1) Solely for the American National Red Cross; or
- (2) Exclusively among the membership of the soliciting agency.

(d) The Council of the District of Columbia may by regulation prescribe the terms and conditions under which solicitations in addition to those enumerated in subsection (b) of this section may be exempted from the provisions of subsection (a) of this section and §§ 2-705 and 2-706; provided, that no exemption granted under authority of this subsection shall exceed for any calendar year \$1,500 in money or property. (July 10, 1957, 71 Stat. 279, Pub. L. 85-87, § 4; 1973 Ed., § 2-2103.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(75) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-704. Same — Application; issuance.

(a) Application for such certificate of registration shall be made upon such form or forms as shall be prescribed by the Council of the District of Columbia, shall be sworn to and shall be filed with the Mayor at least 15 days prior to the time when the certificate of registration applied for shall become effective. Each such application shall contain such information as the Council shall by regulation require.

(b) If, while any application is pending, or during the term of any certificate of registration granted thereon, there is any change in fact, policy, or method from the information given in the application, the applicant or registrant shall within 10 days after such change report the same in writing to the Mayor.

(c) The Mayor shall issue a certificate of registration within 10 days after the filing of an application therefor; provided, that, whenever in the opinion of the Mayor the application does not disclose sufficient information required by this chapter, or the regulations made pursuant thereto, to be stated in such application, then the applicant shall file in writing, within 48 hours, exclusive of Sundays and legal holidays, after a demand therefor made by the Mayor, such additional information as may be required by said Mayor; provided further, that the Mayor, for good cause shown by the applicant, may extend the time for filing such additional information; provided further, that the Mayor may withhold the issuance of a certificate of registration until such additional information is furnished. Each certificate of registration shall be valid for such period of time as shall be specified therein. (July 10, 1957, 71 Stat. 280, Pub. L. 85-87, § 5; 1973 Ed., § 2-2104.)



**Section references.** — This section is referred to in § 2-703.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(76) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the

Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-705. Solicitor information cards.

(a) No individual shall solicit in the District of Columbia unless he exhibits a solicitor information card or a copy thereof, produced and authenticated as provided in regulations made pursuant to this chapter, and reads it to the person solicited, or presents it to said person for his perusal, allowing him sufficient opportunity to read such card before accepting any contribution so solicited.

(b) No individual shall solicit in the District of Columbia by printed matter or published article, or over the radio, television, telephone, or telegraph, unless such publicity shall contain the data and information required to be set forth on the solicitor information card; provided, that when any solicitation is made by telephone, the solicitor shall present to each person who consents or indicates a willingness to contribute, prior to accepting a contribution from said person, such solicitor information card or a copy thereof produced and authenticated as provided in regulations made pursuant to this chapter. (July 10, 1957, 71 Stat. 280, Pub. L. 85-87, § 6; 1973 Ed., § 2-2105.)

**Section references.** — This section is referred to in § 2-703.

## § 2-706. Report of contributions secured.

Each registrant shall, within 30 days after the period for which a certificate of registration has been issued, and within 30 days after a demand therefor by the Mayor, file a report with the Mayor, stating the contributions secured as a result of any solicitation authorized by such certificate and in detail all expenses of or connected with such solicitation, and showing exactly for what use and in what manner all such contributions were or are intended to be dispensed or distributed. (July 10, 1957, 71 Stat. 280, Pub. L. 85-87, § 7; 1973 Ed., § 2-2106.)

**Section references.** — This section is referred to in § 2-703.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts

Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners



under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced

by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

### **§ 2-707. Representations as to finding by Mayor in regard to registration certificate or solicitor card prohibited.**

No person shall make or cause to be made any representation that the issuance of a certificate of registration or of a solicitor information card is a finding by the Mayor:

(1) That the statements contained in the registrant's application are true and accurate;

(2) That the application does not omit a material fact; or

(3) That the Mayor has in any way passed upon the merits or given approval to such solicitation. (July 10, 1957, 71 Stat. 281, Pub. L. 85-87, § 8; 1973 Ed., § 2-2107.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and

Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

### **§ 2-708. Compensation for telephone solicitation prohibited.**

No person shall for pecuniary compensation or consideration conduct or make any solicitation by telephone for or on behalf of any actual or purported charitable use, purpose, association, corporation, or institution. (July 10, 1957, 71 Stat. 281, Pub. L. 85-87, § 9; 1973 Ed., § 2-2108.)

**Section references.** — This section is referred to in § 2-703.

### **§ 2-709. Advisory committee.**

The Mayor may appoint an advisory committee to advise the Mayor in respect to any matter related to the enforcement of this chapter, and the members thereof shall serve without compensation. Such committee shall consist of not less than 5 nor more than 9 members, whose terms shall be fixed by the Mayor. The Mayor is authorized to assign an employee of the District of

Columbia to serve as secretary for the committee. (July 10, 1957, 71 Stat. 281, Pub. L. 85-87, § 10; 1973 Ed., § 2-2109.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and

Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-710. Regulations.

The Council of the District of Columbia is authorized to promulgate regulations to carry out the purposes of this chapter; provided, that no such regulation shall be put in effect until after a public hearing has been held thereon. (July 10, 1957, 71 Stat. 281, Pub. L. 85-87, § 11; 1973 Ed., § 2-2110.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(77) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-711. Registered solicitor's use of name of other person; publication of names of contributors.

(a) No person who is required to obtain a certificate of registration under this chapter shall, for the purpose of soliciting contributions, use the name of any other person, except that of an officer, director, or trustee of the organization for which contributions are solicited, without the written consent of such other person.

(b) A person shall be deemed to have used the name of another person for the purpose of soliciting contributions if such latter person's name is listed on any stationery, advertisement, brochure, or correspondence in or by which a contribution is solicited by or on behalf of a charitable organization or his name is listed or referred to in connection with a request for a contribution as one who has contributed to, sponsored, or endorsed the charitable organization or its activities.

(c) Nothing contained in this section shall prevent the publication of names of contributors without their written consents, in an annual or other periodic

report issued by a charitable organization for the purpose of reporting on its operations and affairs to its membership or for the purpose of reporting contributions to contributors. (July 10, 1957, 71 Stat. 281, Pub. L. 85-87, § 12; 1973 Ed., § 2-2111.)

## § 2-712. Penalties; prosecutions; actions to enjoin.

(a) Any person violating any provision of this chapter, or regulation made pursuant thereto, or filing, or causing to be filed, an application or report pursuant to this chapter, or regulation made pursuant thereto, containing any false or fraudulent statement, shall be punished by a fine of not more than \$500, or by imprisonment of not more than 60 days, or by both such fine and imprisonment.

(b) Prosecutions for violations of this chapter, or the regulations made pursuant thereto, shall be conducted in the name of the District of Columbia by the Corporation Counsel or any of his assistants.

(c) The Corporation Counsel of the District of Columbia, or any of his assistants, is hereby empowered to maintain an action or actions in the Superior Court of the District of Columbia in the name of the District of Columbia to enjoin any person from soliciting in violation of this chapter or in violation of any regulation made pursuant to this chapter.

(d) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this chapter shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (July 10, 1957, 71 Stat. 281, Pub. L. 85-87, § 13; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, § 155(c)(10); 1973 Ed., § 2-2112; Oct. 5, 1985, D.C. Law 6-42, § 438, 32 DCR 4450.)

**Cross references.** — As to Mayor's power to suspend or revoke certificate of registration, see § 2-702.

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill

No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

## § 2-713. Severability.

If any provision of this chapter, or the application thereof to any persons or circumstances, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances, shall not be affected thereby. (July 10, 1957, 71 Stat. 282, Pub. L. 85-87, § 15; 1973 Ed., § 2-2113.)



**§ 2-714. Appropriations.**

Such appropriations as may be necessary to carry out the purposes of this chapter are authorized. (July 10, 1957, 71 Stat. 282, Pub. L. 85-87, § 16; 1973 Ed., § 2-2114.)

## CHAPTER 8. COMMISSION FOR WOMEN.

Sec.

2-801. Statement of purpose.

2-802. Establishment of the Commission.

Sec.

2-803. Powers of the Commission.

2-804. Administration.

**§ 2-801. Statement of purpose.**

It is the purpose of this chapter to support programs directed toward evaluating and improving the status of women in the District of Columbia by establishing the Commission for Women. (1973 Ed., § 2-2601; Sept. 22, 1978, D.C. Law 2-109, § 2, 25 DCR 1456.)

**Legislative history of Law 2-109.** — Law 2-109, the "District of Columbia Commission for Women Act of 1978," was introduced in Council and assigned Bill No. 2-236, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on

first and second readings on May 30, 1978, and June 13, 1978, respectively. Signed by the Mayor on July 13, 1978, it was assigned Act No. 2-230 and transmitted to both Houses of Congress for its review.

**§ 2-802. Establishment of the Commission.**

(a) There is hereby established in the District of Columbia a Commission for Women (hereinafter referred to as the "Commission"). The Commission shall be composed of 21 members appointed by the Mayor of the District of Columbia (hereinafter referred to as the "Mayor"), with the advice and consent of the Council of the District of Columbia (hereinafter referred to as the "Council"), from among the residents of the District of Columbia with experience in the areas of public affairs and issues of particular interest and concern to women, representative by geographic area and reflective by race and age of the population of the District of Columbia. The Commission shall be the successor to the Commission on the Status of Women established by Organization Order No. 38, Commissioner's Order No. 73-94a, effective April 24, 1973 (hereinafter referred to as the "Commission on the Status of Women").

(b) Members of the Commission shall be appointed to serve terms of 3 years and shall serve until their successors are appointed. The present members of the Commission on the Status of Women shall be members of the Commission established by this chapter for the remainder of their current terms. A member of the Commission may be reappointed but may serve no more than 2 consecutive full terms. Tenure on the Commission on the Status of Women shall count toward the consecutive 2 full term limit on the Commission.

(c) Whenever a vacancy occurs on the Commission, the Mayor, with the advice and consent of the Council, shall, within 90 working days of such vacancy, appoint a successor to fill the unexpired portion of the term.

(d) The Mayor shall designate, from among the members appointed to the Commission, the Chairperson, who shall serve in that capacity at the pleasure of the Mayor.

(e) All members of the Commission shall serve without compensation; except, that expenses incurred by the Commission as a whole or by its individual

members, when duly authorized, shall become an obligation against appropriated District of Columbia funds designated for that purpose.

(f) The Mayor may remove, after notice and hearing, any member of the Commission for neglect of duty, incompetence, misconduct or malfeasance in office. (1973 Ed., § 2-2602; Sept. 22, 1978, D.C. Law 2-109, § 3, 25 DCR 1456.)

**Legislative history of Law 2-109.** — See note to § 2-801.

### **§ 2-803. Powers of the Commission.**

(a) The Commission shall conduct studies, review progress, develop, recommend and undertake action and initiate and conduct programs in areas including, but not limited to, the following:

(1) Elimination of discrimination based on sex and elimination of sex role stereotyping and bias;

(2) Public and private employment practices, including matters pertaining to hours, wages and working conditions;

(3) Education;

(4) Equality of rights and responsibilities of men and women under the law; and

(5) New and expanded services for women to facilitate their optimal functioning as homemakers, wage earners, and citizens, including mental and physical health care, and the improvement of facilities for child care and youth development.

(b) The Commission is authorized to apply for and receive grants to fund its program activities in accordance with procedures relating to grants management.

(c) The Commission may accept private gifts and donations to carry out the purposes of this chapter.

(d) The Commission shall stimulate and encourage study and review of the status of women and may act as a clearinghouse for activities in the District of Columbia. (1973 Ed., § 2-2603; Sept. 22, 1978, D.C. Law 2-109, § 4, 25 DCR 1456.)

**Legislative history of Law 2-109.** — See note to § 2-801.

### **§ 2-804. Administration.**

(a) The Commission shall appoint an Executive Director who shall be the chief administrative officer of the Commission. The Executive Director shall report regularly to the Commission on staff activities. The Executive Director shall receive annual rate of compensation fixed in accordance with Chapter 51 of Title 5 of the United States Code.

(b) Additional staff service for the Commission shall be supplied in accordance with positions and funding approved in the District of Columbia budget.



(c) The Commission is authorized to establish rules and procedures for the conduct of its business, including the election of officers other than the Chairperson, as it deems necessary.

(d) The Commission shall submit to the Mayor annual reports of its activities and the work carried on under its direction. (1973 Ed., § 2-2604; Sept. 22, 1978, D.C. Law 2-109, § 5, 25 DCR 1456.)

**Legislative history of Law 2-109.** — See note to § 2-801.

CHAPTER 9. COSMETOLOGISTS.

Sec.

2-901 to 2-928. [Repealed].

**§§ 2-901 to 2-928. Definitions; Board of Cosmetology created; composition; qualifications; term of office; oath; vacancies; removal; officers; seal; quorum; meetings; records; rules and regulations; procedure for refusal, revocation, or suspension of license or certificate; reissuance; appeal from action of Board; practice or teaching of cosmetology without certificate of registration prohibited; exception; requirements to practice or teach; requirements for examination; limited certificate of registration; school of cosmetology — Requirements for certificate of registration; student practice upon public; practice limited to registered beauty shops; exception; manager required; exceptions to examination requirements; temporary permits; apprentices in beauty shops; demonstrators; reciprocity; issuance of certificate or license; display; conduct of examinations; fees; expenses of Board; unexpended funds; persons called to aid of Board; sanitary regulations; hearings; temporary licenses; exemptions from chapter; expiration and renewal of certificate of registration; penalties; prosecution by Corporation Counsel; severability.**

Repealed. Mar. 17, 1993, D.C. Law 9-245, § 38(b), 40 DCR 660.

**Cross references.** — As to rules and regulations, see § 1-319. As to Mayor's authority to fix fees, see § 1-346. As to Mayor's authority to increase or decrease fees, see § 1-347. As to honorariums to various board members and commissioners, see §§ 1-348 to 1-353. As to administrative procedure, see Chapter 15 of Title 1. As to judicial review of administrative orders and decisions, see § 11-722. As to refund of fees when license is refused, see § 47-1318. As to business licenses, see Chapter 28 of Title 47. As to exemption of national associations of hairdressers or cosmetologists from general licensing law, see § 47-2810. As to Council's au-

thority to regulate, modify, or eliminate license requirements, see § 47-2842.

**Legislative history of Law 9-245.** — Law 9-245, the "Barber and Cosmetology Revision Act of 1992," was introduced in Council and assigned Bill No. 9-500, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 1, 1992, and December 15, 1992, respectively. Signed by the Mayor on January 6, 1993, it was assigned Act No. 9-388 and transmitted to both Houses of Congress for its review. D.C. Law 9-245 became effective on March 17, 1993.

## CHAPTER 10. COUNCIL ON LAW ENFORCEMENT.

Sec.

2-1001. Created; composition; duties; Chairman; meetings.

**§ 2-1001. Created; composition; duties; Chairman; meetings.**

(a) The Council on Law Enforcement in the District of Columbia (referred to in this section as the "Council") is hereby created.

(b) The Council shall be composed of the following members:

- (1) The Mayor of the District of Columbia;
- (2) The Chief of Police;
- (3) The Chief of the United States Park Police;
- (4) The United States Attorney;
- (5) The Corporation Counsel;
- (6) A United States Magistrate for the District;
- (7) The Director of the Department of Corrections;
- (8) The Parole Executive of the Board of Parole of the District;
- (9) The United States Marshal for the District;
- (10) One person appointed by the Chief Judge of the District Court;
- (11) One person appointed by the Chief Judge of the Superior Court of the District of Columbia;
- (12) One person appointed by the Bar Association of the District of Columbia;
- (13) One person appointed by the Washington Bar Association; and
- (14) One person appointed by the Washington Criminal Justice Association.

(c) The Council shall make a continuing study and appraisal of crime and law enforcement in the District, and shall make a report to the Senate and the House of Representatives at the beginning of each regular session of Congress.

(d) The Council shall select a Chairman from among its members. The Council shall meet at regular intervals at least 4 times annually, at times to be fixed by the Chairman. A special meeting may be held at any time upon the call of the Chairman. The 1st meeting of the Council shall be called by the Mayor of the District of Columbia, who shall preside until a Chairman is selected. (June 29, 1953, 67 Stat. 101, ch. 159, § 401; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, §§ 155(a), 157(f); 1973 Ed., § 2-1901.)

**References in text.** — The Act of October 17, 1968, Pub. L. 90-578, terminated the office of United States Commissioner and established in place thereof the office of United States Magistrate, referred to in subsection (b)(6) of this section. The Act became operative in the District on June 27, 1969, when 2 United States Magistrates assumed office pursuant to

appointment by order of the District Court, dated June 20, 1969.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Govern-



mental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of

Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## CHAPTER 11. CRIMINAL JUSTICE SUPERVISORY BOARD.

Sec.

2-1101. Definitions.

2-1102. Finding; purpose.

2-1103. Criminal Justice Supervisory Board and Office of Criminal Justice Plans and Analysis; membership; staff.

Sec.

2-1104. Meetings; quorums; committees; by-laws.

2-1105. Powers and duties.

2-1106. Reports.

2-1107. Authorization of funds.

## § 2-1101. Definitions.

For the purposes of this chapter:

(1) "Board" means the Criminal Justice Supervisory Board established under § 2-1103 (b).

(2) "Crime Control Act" means the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3701 et seq.).

(3) "JPC" means the Judicial Planning Committee established pursuant to § 203(c) of the Crime Control Act of 1976 (42 U.S.C. § 3723).

(4) "Juvenile Justice Act" means the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. § 5601 et seq.).

(5) "Mayor's Office of Policy and Program Evaluation" means the office, under the direction and control of the Mayor, established pursuant to Mayor's Order 83-22, issued January 3, 1983 (30 DCR 328).

(6) "Youth" means a person who has not reached the age of 21 years.

(7) "Senior citizen" means any person who has reached the age of 60 years. (1973 Ed., § 2-2501; Sept. 13, 1978, D.C. Law 2-107, § 2, 25 DCR 1391; July 23, 1992, D.C. Law 9-134, § 301(b)(1), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 301(b)(1), 39 DCR 4895.)

**Effect of amendments.** — D.C. Law 9-145 rewrote (5).

**Temporary amendments of section.** — Section 301(b)(1) of D.C. Law 9-134 rewrote (5).

Section 501(c)(3) of D.C. Law 9-134 provided that § 301 shall apply as of October 1, 1992.

Section 601(b) of D.C. Law 9-134 provided that the act shall expire on the 225th day of its having taken effect.

**Legislative history of Law 2-107.** — Law 2-107, the "Criminal Justice Supervisory Board Act of 1978," was introduced in Council and assigned Bill No. 2-211, which was referred to the Committee on the Judiciary. The Bill was adopted on first, amended first, and second readings on May 16, 1978, May 30, 1978, and June 13, 1978, respectively. There being no action by the Mayor, it was assigned Act No. 2-222 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-134.** — Law 9-134, the "Omnibus Budget Support Temporary Act of 1992," was introduced in Council and assigned Bill No. 9-485. The Bill was adopted on first and second readings on April

7, 1992, and May 6, 1992, respectively. Approved without the signature of the Mayor on May 29, 1992, it was assigned Act No. 9-219 and transmitted to both Houses of Congress for its review. D.C. Law 9-134 became effective on July 23, 1992.

**Legislative history of Law 9-145.** — Law 9-145, the "Omnibus Budget Support Act of 1992," was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

**References in text.** — The "Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3701)," referred to in paragraph (2), was repealed by Title II, § 602 of the Act of October 12, 1984, 98 Stat. 2077, Pub. L. 98-473.

"Section 203(c) of the Crime Control Act of 1976 (42 U.S.C. § 3723)," referred to in para-

graph (3), was superseded by Pub. L. 90-351, Title I, § 203, as added December 27, 1979, 93 Stat. 1174, Pub. L. 96-157, § 2.

tion 501(c)(3) of D.C. Law 9-145 provided that § 301 shall apply as of October 1, 1992.

**Criminal Justice Improvement Commission Act of 1990.** — See D.C. Law 8-142.

## § 2-1102. Findings; purpose.

The Council of the District of Columbia finds and declares that:

(1) Crime and delinquency are complex social phenomena requiring the attention and efforts of the criminal justice system, local government, and private citizens alike;

(2) The establishment of appropriate goals, objectives, and standards for the reduction of crime and delinquency and for the administration of justice must be a priority concern;

(3) The functions of the criminal justice system must be coordinated more efficiently and effectively;

(4) The full and effective use of resources affecting local criminal justice systems requires the complete cooperation of local government agencies; and

(5) Training, research, evaluation, technical assistance, and public education activities must be encouraged and focused on the improvement of the criminal justice system and the generation of new methods for the prevention and reduction of crime and delinquency. (1973 Ed., § 2-2502; Sept. 13, 1978, D.C. Law 2-107, § 3, 25 DCR 1391.)

**Legislative history of Law 2-107.** — See note to § 2-1101.

## § 2-1103. Criminal Justice Supervisory Board and Office of Criminal Justice Plans and Analysis; membership; staff.

(a) There is hereby established within the executive branch of the District of Columbia government a Criminal Justice Supervisory Board which shall serve as the law enforcement and criminal justice planning agency for the District of Columbia in accordance with the terms of the Crime Control Act. The Mayor's Office of Policy and Program Evaluation shall serve as the staff of the Board.

(b) The Criminal Justice Supervisory Board shall consist of 33 members, as follows:

- (1) The Mayor;
- (2) The Chairman of the Council of the District of Columbia;
- (3) The Chief Judge of the District of Columbia Court of Appeals;
- (4) The Chief Judge of the Superior Court of the District of Columbia;
- (5) The Corporation Counsel of the District of Columbia;
- (6) The Chairperson of the Committee on the Judiciary of the Council of the District of Columbia;
- (7) The Executive Officer of the District of Columbia Courts;



(8) Three persons appointed by the Mayor from a list of no less than 9 nominees submitted by the Chief Judge of the District of Columbia Court of Appeals;

(9) The United States Attorney for the District of Columbia (if he desires to serve);

(10) The City Administrator;

(11) A judge of the Superior Court of the District of Columbia selected by the Chief Judge of the District of Columbia Court of Appeals;

(12) The Director of the District of Columbia Public Defender Service;

(13) The Director of the District of Columbia Pre-Trial Services Agency;

(14) The Chairperson of the state advisory group of the District of Columbia established pursuant to § 223 of the Juvenile Justice Act;

(15) Two members of the state advisory group of the District of Columbia established pursuant to § 223 of the Juvenile Justice Act; provided, that the 2 members, other than the Chairperson of such state advisory group, shall not be employees of the District of Columbia government, and shall be chosen by the Mayor from among the membership of the state advisory group;

(16) Eight persons appointed by the Mayor, 1 of whom shall be a youth and 2 of whom shall be senior citizens;

(17) Four persons appointed by the Chairman of the Council of the District of Columbia with the consent of the Council; provided, that such persons shall not be employed by the District of Columbia government, 1 of whom shall be a youth and 1 of whom shall be a senior citizen; and

(18) Three persons appointed by the Chairperson of the Committee on the Judiciary of the Council of the District of Columbia with the consent of the Committee; provided, that such persons shall not be employed by the District of Columbia government, 1 of whom shall be a youth and 1 of whom shall be a senior citizen.

(c) An alternate of a member of the Board may be designated by each member; provided, that such designation shall be in writing. In the event that a nongovernment member, appointed pursuant to paragraphs (15) through (18) of subsection (b) of this section, is absent from 3 consecutive meetings of the Board or any of its committees or subcommittees, the Chairperson of the Board shall request that the Mayor of the District of Columbia (hereinafter referred to as the "Mayor"), the Chairman of the Council, the Chairperson of the Committee on the Judiciary of the Council or the state advisory group established pursuant to § 223 of the Juvenile Justice Act, as the case may be, replace such appointed member.

(d) Members serving pursuant to paragraphs (15) through (18) of subsection (b) of this section shall serve for 2-year terms and may be reappointed for no more than 1 additional consecutive term. Members serving pursuant to paragraph (8) of subsection (b) of this section shall serve at the pleasure of the Chief Judge of the District of Columbia Court of Appeals. The terms of all other members shall be concurrent with their service in the office from which they derive their membership.

(e) Should any member cease to be an officer of the unit or agency of government which he is appointed to represent, his membership on the Criminal

Justice Supervisory Board shall terminate immediately and a new member shall be appointed in the same manner as his predecessor to fill the unexpired term. Vacancies occurring in memberships created by paragraphs (8), (11), and (15) through (18) of subsection (b) of this section, except those by the expiration of a term, shall be filled for the balance of the unexpired term in the same manner as the original appointment within 30 days of the vacancy.

(f) The Mayor shall appoint a Chairperson of the Criminal Justice Supervisory Board. A Vice-Chairperson shall be selected by the Board from among its members.

(g) A member of the Board is not entitled to a salary for duties performed as a member of the Board. Each member is entitled to reimbursement for travel and other necessary expenses incurred in the performance of official Board duties.

(h) Repealed. (1973 Ed., § 2-2503; Sept. 13, 1978, D.C. Law 2-107, § 4, 25 DCR 1391; Sept. 28, 1979, D.C. Law 3-24, §§ 2, 3, 26 DCR 405; July 23, 1992, D.C. Law 9-134, § 301(b)(2), (3), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 301(b)(2), (3), 39 DCR 4895.)

**Section references.** — This section is referred to in §§ 1-1462 and 2-1101.

**Effect of amendments.** — D.C. Law 9-145, in (a), substituted "The Mayor's Office of Policy and Program Evaluation" for "There is also hereby created an Office of Criminal Justice Plans and Analysis which"; and repealed (h).

**Temporary amendments of section.** — Section 301(b)(2) of D.C. Law 9-134 in (a) substituted "The Mayor's Office of Policy and Program Evaluation" for "There is also hereby created an Office of Criminal Justice Plans and Analysis which".

Section 301(b)(3) of D.C. Law 9-134 repealed (h) effective July 23, 1992.

Section 501(c)(3) of D.C. Law 9-134 provided that § 301 shall apply as of October 1, 1992.

Section 601(b) of D.C. Law 9-134 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 301(b)(2) and (3) of the Omnibus Budget Support Emergency Act of 1992 (D.C. Act 9-203, April 29, 1992, 39 DCR 3219).

**Legislative history of Law 2-107.** — See note to § 2-1101.

**Legislative history of Law 3-24.** — Law 3-24, the "Criminal Justice Supervisory Board Amendments Act of 1979," was introduced in Council and assigned Bill No. 3-155, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 19, 1979, and July 3, 1979, respectively. Signed by the Mayor on July 12, 1979, it was assigned Act No. 3-68 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-134.** — See note to § 2-1101.

**Legislative history of Law 9-145.** — See note to § 2-1101.

**References in text.** — "Section 223 of the Juvenile Justice Act" referred to in subsections (b)(14), (b)(15) and (c), is classified as 42 U.S.C. § 5633.

**Application of § 301 of Law 9-145.** — Section 501(c)(3) of D.C. Law 9-145 provided that § 301 shall apply as of October 1, 1992.

**Transfer of functions.** — For temporary transfer of functions of the Office of Criminal Justice Plans and Analysis, established pursuant to subsection (a) of this section, and all positions, property, records, and unexpended balances of appropriations, allocations, and other funds available to or to be made available relating to the functions of the Office of Criminal Justice Plans and Analysis to the Mayor's Office of Policy and Programs Evaluation, see § 301(a) of the Omnibus Budget Support Emergency Act of 1992 (D.C. Act 9-203, April 29, 1992, 39 DCR 3219).

Section 301(a) of D.C. Law 9-134 provided that the functions of the Office of Criminal Justice Plans and Analysis, and all positions, property, records, and unexpended balances of appropriations, allocations, and other funds available to or to be made available relating to the functions of the Office of Criminal Justice Plans and Analysis are transferred to the Mayor's Office of Policy and Program Evaluation.

Section 501(c)(3) of D.C. Law 9-134 provided that § 301 shall apply as of October 1, 1992.

Section 601(b) of D.C. Law 9-134 provided that the act shall expire on the 225th day of its having taken effect.



Section 301(a) of D.C. Law 9-145 provided that the functions of the Office of Criminal Justice Plans and Analysis, and all positions, property, records, and unexpended balances of appropriations, allocations, and other funds available to or to be made available relating to the functions of the Office of Criminal Justice Plans and Analysis are transferred to the

Mayor's Office of Policy and Program Evaluation.

**Funding authorized.** — Section 824 of the Act of December 27, 1979, 93 Stat. 1167, Pub. L. 96-157, authorized funding for the District's state planning agency according to a special formula.

## § 2-1104. Meetings; quorums; committees; bylaws.

(a) The Criminal Justice Supervisory Board shall meet at least once every 90 days and at such other times designated by the Chairperson or a majority of the Board.

(b) A simple majority of the membership shall constitute a quorum for the Criminal Justice Supervisory Board and for its committees or subcommittees.

(c) In developing and administering an annual comprehensive criminal justice plan for the District of Columbia, the Chairperson of the Board, with the advice and consent of a majority of the Board shall establish committees or subcommittees comprised of members of the Board and such other persons as the Chairperson of the Board deems advisable and feasible. The Chairperson of the Board, with the advice and consent of a majority of the Board, shall also determine the chairperson for each committee. The committee structure of the Board shall include, but not be limited to:

(1) A committee on the courts comprised of the JPC and designed to carry out the purposes of § 203 of the Crime Control Act;

(2) A committee on juvenile justice comprised of the state advisory group of the District of Columbia established pursuant to § 223 of the Juvenile Justice Act and designed to develop the juvenile justice component of the annual comprehensive criminal justice plan in accordance with the Juvenile Justice Act; and

(3) An appeals committee designed to consider appeals from any action of the Board denying all or part of any funds requested in any subgrant application to conduct a project for which funds are available.

(d) Except for a committee on the courts and a committee on juvenile justice, each committee of the Board shall contain: (1) At least 1 member from or appointed by the executive branch of the District of Columbia government; (2) at least 1 member from or appointed by the Council of the District of Columbia; (3) at least 1 member from the District of Columbia courts; and (4) a sufficient number of members who are not employed by the District of Columbia government to comprise at least one third of the total membership of the committee or subcommittee. In the event that an executive committee is established by the Board, such executive committee shall include in its membership the same proportion of members representing the judiciary and members representing the juvenile justice advisory group as the total number of each such class of members bears to the total membership of the Board.

(e) Subject to the provisions of paragraphs (1), (2) and (3) of subsection (c) of this section, the Board shall ensure that, prior to the adoption by the Board of an annual comprehensive criminal justice plan, it shall have received and



considered recommendations from at least one of its committees or subcommittees with respect to what ought to be the contents of the plan concerning: (1) The administration of justice; (2) the prevention of crime; (3) detection of crime and apprehension of offenders; (4) prosecution and defense; and (5) sentencing and correctional treatment of offenders. In addition, the Board shall ensure that, prior to its making grant awards in accordance with an approved annual comprehensive criminal justice plan, the Board shall have received and considered recommendations from at least one of its committees or subcommittees with respect to all potential subgrant award recipients who qualify in accordance with the Board's rules and procedures governing subgrant awards.

(f) The Board shall promulgate rules of procedure governing its operations which comply with Chapter 15 of Title 1, and with §§ 1-252 through 1-264. (1973 Ed., § 2-2504; Sept. 13, 1978, D.C. Law 2-107, § 5, 25 DCR 1391; Sept. 28, 1979, D.C. Law 3-24, § 4, 26 DCR 405.)

**Legislative history of Law 2-107.** — See note to § 2-1101.

**Legislative history of Law 3-24.** — See note to § 2-1103.

**References in text.** — "Section 203 of the Crime Control Act," referred to in subsection (c)(1), formerly codified in 42 U.S.C. § 3723,

was superseded by Pub. L. 90-351, Title I, § 203, as added December 27, 1979, 93 Stat. 1174, Pub. L. 96-157, § 2.

"Section 223 of the Juvenile Justice Act," referred to in subsection (c)(2), is codified as 42 U.S.C. § 5633.

## § 2-1105. Powers and duties.

The Board shall:

(1) Advise and assist the Mayor, the District of Columbia courts and the Council of the District of Columbia in developing policies, plans, programs, and budgets for improving the coordination, administration and effectiveness of the criminal justice system in the District of Columbia;

(2) Approve all components of the annual comprehensive criminal justice plan prepared pursuant to the Crime Control Act and submit such plan to the Council of the District of Columbia for its advisory review of the goals, priorities, and policies contained therein prior to the ultimate submission of such plan to the Law Enforcement Assistance Administration, United States Department of Justice;

(3) Include in each annual comprehensive criminal justice plan a statement of the fiscal impact each component of such plan would likely have, if any, on the fiscal budget of the District of Columbia for the next 5 years;

(4) Assure the participation of citizens, community organizations, and juvenile justice advocates at all levels of the planning process;

(5) Recommend goals, priorities, and standards for the reduction of crime and the improvement of the administration of justice in the District of Columbia;

(6) Recommend criminal justice legislation to the Mayor, the Council of the District of Columbia, and the Congress, where appropriate;

(7) Ensure that the annual judicial plan developed by the JPC is implemented to the extent that it is in conformity with the comprehensive plan for

the improvement of law enforcement and criminal justice in accordance with § 304(b) of the Crime Control Act;

(8) Encourage local and regional comprehensive criminal justice planning efforts;

(9) Monitor and evaluate programs and projects, funded in whole or in part by the District of Columbia government, aimed at reducing crime and delinquency and improving the administration of justice;

(10) Cooperate with and render technical assistance to agencies and units of the District of Columbia government, and public or private agencies relating to the criminal justice system;

(11) Have the authority to collect from any District of Columbia governmental entity information, data, reports, statistics or such other material which is necessary to carry out the functions of the Office of Criminal Justice Plans and Analysis consistent with the District of Columbia Self-Government and Governmental Reorganization Act; and

(12) Perform such other duties as may be necessary to carry out the purposes of this chapter. (1973 Ed., § 2-2505; Sept. 13, 1978, D.C. Law 2-107, § 6, 25 DCR 1391.)

**Legislative history of Law 2-107.** — See note to § 2-1101.

**References in text.** — "Section 304(b) of the Crime Control Act," referred to in paragraph (7), formerly codified at 42 U.S.C. § 3734, was superseded by Pub. L. 90-351, Title I, § 304, as Pub. L. 98-473, added December 27, 1979, 93

Stat. 1178, Pub. L. 96-157, § 2, which was repealed by Title II, § 605(c) of the Act of October 12, 1984, 98 Stat. 2080, Pub. L. 98-473.

The "District of Columbia Self-Government and Governmental Reorganization Act," referred to in paragraph (11), is the Act of December 24, 1973, 87 Stat. 774, Pub. L. 93-198.

## § 2-1106. Reports.

(a) Within 90 days of the close of each fiscal year, the Criminal Justice Supervisory Board shall submit an annual report to the Mayor and to the Council of the District of Columbia concerning its work during the preceding fiscal year.

(b) The Mayor's Office of Policy and Program Evaluation through the Board may submit other studies, evaluations, crime data analyses, and reports to the Mayor or the Council of the District of Columbia as deemed appropriate or as requested by the Mayor or the Council. (1973 Ed., § 2-2506; Sept. 13, 1978, D.C. Law 2-107, § 7, 25 DCR 1391; July 23, 1992, D.C. Law 9-134, § 301(b)(4), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 301(b)(4), 39 DCR 4895.)

**Effect of amendments.** — D.C. Law 9-145, in (b), substituted "Mayor's Office of Policy and Program Evaluation" for "OCJPA".

**Temporary amendments of section.** — Section 301(b)(4) of D.C. Law 9-134 in (b) substituted "Mayor's Office of Policy and Program Evaluation" for "OCJPA".

Section 501(c)(3) of D.C. Law 9-134 provided that § 301 shall apply as of October 1, 1992.

Section 601(b) of D.C. Law 9-134 provided

that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 301(b)(4) of the Omnibus Budget Support Emergency Act of 1992 (D.C. Act 9-203, April 29, 1992, 39 DCR 3219).

**Legislative history of Law 2-107.** — See note to § 2-1101.

**Legislative history of Law 9-134.** — See note to § 2-1101.

**Legislative history of Law 9-145.** — See note to § 2-1101.

tion 501(c)(3) of D.C. Law 9-145 provided that § 301 shall apply as of October 1, 1992.

**Application of § 301 of Law 9-145.** — Sec-

## § 2-1107. Authorization of funds.

There are hereby authorized to be appropriated such funds as may be necessary for the administration of this chapter. (1973 Ed., § 2-2507; Sept. 13, 1978, D.C. Law 2-107, § 8, 25 DCR 1391; July 23, 1992, D.C. Law 9-134, § 301(b)(5), 39 DCR 4066; Sept. 10, 1992, D.C. Law 9-145, § 301(b)(5), 39 DCR 4895.)

**Effect of amendments.** — D.C. Law 9-145 deleted the former second sentence.

**Temporary amendments of section.** — Section 301(b)(5) of D.C. Law 9-134 deleted the former second sentence.

Section 501(c)(3) of D.C. Law 9-134 provided that § 301 shall apply as of October 1, 1992.

Section 601(b) of D.C. Law 9-134 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 301(b)(5)

of the Omnibus Budget Support Emergency Act of 1992 (D.C. Act 9-203, April 29, 1992, 39 DCR 3219).

**Legislative history of Law 2-107.** — See note to § 2-1101.

**Legislative history of Law 9-134.** — See note to § 2-1101.

**Legislative history of Law 9-145.** — See note to § 2-1101.

**Application of § 301 of Law 9-145.** — Section 501(c)(3) of D.C. Law 9-145 provided that § 301 shall apply as of October 1, 1992.



## CHAPTER 12. DENTISTRY.

Sec.

2-1201 to 2-1233. [Repealed].

§§ 2-1201 to 2-1233. Board of Dental Examiners; duty of Secretary-Treasurer to enforce law; prosecutions; legal services to Board; investigations; annual reports; application for license; issuance of license; duplicate license; special licenses; declaration of policy; revocation or suspension of license; license fees; expenses of Board; compensation of Board members; annual registration; registration fee; penalty for failure to register; reinstatement; "practicing dentistry" defined; practicing under improper name; exemptions from application of chapter; display of license and annual registration card; sale of or offer to sell diploma, certificate, or license; fraudulent use; alteration; practice under false name; false representations concerning degree, application or examination; post-graduate classes without approval of Board prohibited; dental hygienists; practice without a license; second or subsequent conviction under §§ 2-1220 to 2-1222 and 2-1229; construction of personal pronouns; definitions; rules and regulations; imposition of civil fines, penalties, and fees; adjudications.

Repealed. Mar. 25, 1986, D.C. Law 6-99, § 1104(a), 33 DCR 729.

**Cross references.** — As to regulation of health occupations, see Chapter 33 of this title.

**Legislative history of Law 6-99.** — Law 6-99, the "District of Columbia Health Occupations Revision Act of 1985," was introduced in Council and assigned Bill No. 6-317, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 17, 1985, and January 14, 1986, respectively.

Signed by the Mayor on January 28, 1986, it was assigned Act No. 6-127 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — Section 479 of D.C. Law 6-42 had added a § 32 to the Act of June 6, 1892, codified as § 2-1233, and effective October 5, 1985; this section was subject to the subsequent repeal of the 1892 Act by § 1104(a) of D.C. Law 6-99.

CHAPTER 13. HEALING ARTS PRACTICE.

*Subchapter I. Regulatory Provisions.*

Sec.

2-1301 to 2-1343. [Repealed].

2-1344. Limitation on liability for medical care or assistance in emergency situations.

2-1345. Health care professional volunteer assistance protection.

*Subchapter II. Reports of Neglected Children.*

2-1351. Purpose.

2-1352. Persons required to make reports; procedure.

Sec.

2-1353. Nature and contents of reports.

2-1354. Immunity from liability.

2-1355. Privileges; waiver.

2-1356. Exceptions for treatment solely by spiritual means.

2-1357. Failure to make report.

*Subchapter III. Reporting of Injuries Caused by Firearms or Other Dangerous Weapons.*

2-1361. Reports by physicians and institutions required.

2-1362. Nature and contents of reports.

2-1363. Immunity from liability.

*Subchapter I. Regulatory Provisions.*

§§ 2-1301 to 2-1343. Definitions; license required; Commission on Licensure to Practice the Healing Art; boards of examiners; appointment; composition; term of office; qualifications; compensation; officers; rules; Board of Examiners in Basic Sciences; Board of Examiners in Medicine and Osteopathy; boards of examiners in drugless methods of healing; Board of Examiners in Midwifery; examinations; issuance of licenses based on reports of boards; examination papers open to inspection; retention of papers; record of licenses issued; numbering of licenses; display; applications for licenses; contents; fees; exemption from fees; refunds; licensees in medicine, surgery, or midwifery under prior law to be relicensed; osteopaths, chiropractors, and those who practice the healing art to apply for license; license without examination to those engaged in practice of drugless method of healing; issuance of license by endorsement; certificate or diploma from national examining board or completion of examination by Federation of State Medical Boards; evidence required with application for license; temporary licenses; procedures and standards for imposition of sanctions against licensees; filing false data with

**Commission; disclosure of applicant's identity number; impersonation of applicant; premature disclosure of examination; impersonation of licensee; altering or forging diploma, certificate, or seal of Commission; unfair rating of applicants; false swearing; license or registration refused for cause; procedure; penalties; subsequent offenses; suspension or revocation of license upon conviction of felony; enjoining unlawful practice of healing art; procedure; exemptions from subchapter; money paid to Director of Department of Finance and Revenue; deposits; payment of expenses; compensation of members of boards and employees of Commission; transfer of records, property, and money to Commission; enforcement; annual report to Congress; short title; transfer of provisions; inconsistent laws repealed.**

Repealed. Mar. 25, 1986, D.C. Law 6-99, § 1104(e), 33 DCR 729.

**Legislative history of Law 6-99.** — Law 6-99, the "District of Columbia Health Occupations Revision Act of 1985," was introduced in Council and assigned Bill No. 6-317, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 17,

1985, and January 14, 1986, respectively. Signed by the Mayor on January 28, 1986, it was assigned Act No. 6-127 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — Section 2-1303 had been amended by § 2 of D.C. Law 6-36.

## **§ 2-1344. Limitation on liability for medical care or assistance in emergency situations.**

(a) Any person who in good faith renders emergency medical care or assistance to an injured person at the scene of an accident or other emergency in the District of Columbia outside of a hospital, without the expectation of receiving or intending to seek compensation from such injured person for such service, shall not be liable in civil damages for any act or omission, not constituting gross negligence, in the course of rendering such care or assistance.

(b) In the case of a person who renders emergency medical care or assistance in circumstances described in subsection (a) of this section and who is not licensed or certified by the District of Columbia or by any state to provide medical care or assistance, the limited immunity provided in subsection (a) of this section shall apply to such persons; provided, that the person shall relinquish the direction of the care of the injured person when an appropriate person licensed or certified by the District of Columbia or by any state to provide medical care or assistance assumes responsibility for the care of the injured person.



(c) A certified emergency medical technician/paramedic or emergency medical technician/intermediate paramedic who, in good faith and pursuant to instructions either directly or via telecommunication from a licensed physician, renders advanced emergency medical care or assistance to an injured person at the scene of an accident or other emergency or in transit from the scene of an accident or emergency to a hospital shall not be liable in civil damages for any act or omission not constituting gross negligence in the course of rendering such advanced emergency medical care or assistance.

(d) A licensed physician who in good faith gives emergency medical instructions either directly or via telecommunication to a certified emergency medical technician/paramedic or emergency medical technician/intermediate paramedic for the purpose of providing advanced emergency medical care to an injured person at the scene of an accident or other emergency or in transit from the scene of an accident or emergency to a hospital shall not be liable in civil damages for any act or omission not constituting gross negligence in the course of giving such emergency medical instructions.

(e) For the purposes of this section, the terms "emergency medical technician/paramedic" and "emergency medical technician/intermediate paramedic" mean a person who has been trained in advanced emergency medical care, employed in that capacity, and certified by the appropriate governmental certifying authority in the District of Columbia or in any state to:

- (1) Carry out all phases of basic life support;
- (2) Administer drugs under the written or oral authorization, including via telecommunication, of a licensed physician;
- (3) Administer intravenous solutions under the written or oral authorization, including via telecommunication, of a licensed physician; and
- (4) Carry out, either directly or via telecommunication instructions from a licensed physician, certain other phases of advanced life support as authorized by the appropriate governmental certifying authority. (Nov. 8, 1965, 79 Stat. 1302, Pub. L. 89-341, § 1; 1973 Ed., § 2-142; Sept. 28, 1977, D.C. Law 2-25, § 2, 24 DCR 3718; Aug. 1, 1981, D.C. Law 4-25, § 3; 28 DCR 2622.)

**Cross references.** — As to liability of paramedics employed by District, see § 1-1211. As to regulation of the manufacture, distribution or dispensing of controlled substances, see §§ 33-531 to 33-539.

**Legislative history of Law 2-25.** — Law 2-25, the "Advanced Life Support Act of 1977," was introduced in Council and assigned Bill No. 2-136, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 14, 1977 and June 28, 1977, respectively. Signed by the Mayor on July 8, 1977, it was assigned Act No.

2-56 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 4-25.** — Law 4-25, the "Intermediate Paramedic Regulations Act of 1981," was introduced in Council and assigned Bill No. 4-198, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on May 5, 1981, and May 19, 1981, respectively. Signed by the Mayor on June 5, 1981, it was assigned Act No. 4-46 and transmitted to both Houses of Congress for its review.

## § 2-1345. Health care professional volunteer assistance protection.

(a) A licensed physician, registered nurse, or nurse-midwife certified or practicing in the specialty of obstetrics or gynecology who in good faith provides health care or treatment at or on behalf of a free health clinic operating lawfully in the District of Columbia without the expectation of receiving or intending to receive compensation shall not be liable in civil damages for any act or omission in the course of rendering the health care or treatment, unless the act or omission is an intentional wrong or manifests a willful or wanton disregard for the health or safety of others.

(b) A licensed physician, registered nurse, or nurse-midwife providing medical care or assistance in obstetrics or gynecology in accordance with subsection (a) of this section shall provide and shall require his or her prospective client to sign a written statement witnessed by 2 persons in which the parties agree to the rendering of the health care or treatment.

(c) The immunity provided in subsection (a) of this section shall apply to any claim, arising out of health care or treatment given under subsection (a) of this section against: (1) District of Columbia public health clinic; and (2) a free clinic, and the District of Columbia as an indemnifier of such a free clinic, which meets the eligibility requirements of § 1-308.1 (2). (Nov. 8, 1965, Pub. L. 89-341, § 2, as added Aug. 17, 1991, D.C. Law 9-41, § 3, 38 DCR 4979; Feb. 5, 1994, D.C. Law 10-68, § 9, 40 DCR 6311.)

**Effect of amendments.** — D.C. Law 9-41 added the section.

D.C. Law 10-68 inserted "or on behalf of" following "treatment at" in (a).

**Legislative history of Law 9-41.** — Law 9-41, the "Health Care Professional Volunteer Assistance Protection Amendment Act of 1991," was introduced in Council and assigned Bill No. 9-42, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 4, 1991, and July 2, 1991, respectively. Signed by the Mayor on July 24, 1991, it was assigned

Act No. 9-78 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 10-68.** — Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

## *Subchapter II. Reports of Neglected Children.*

### § 2-1351. Purpose.

It is the purpose of this subchapter to require a report of a suspected neglected child in order to identify neglected children; to assure that protective services will be made available to a neglected child to protect the child and his or her siblings and to prevent further abuse or neglect; and to preserve the family life of the parents and children, to the maximum extent possible, by enhancing the parental capacity for adequate child care. (Nov. 6, 1966, 80 Stat. 1354, Pub. L. 89-775, § 1; 1973 Ed., § 2-161; Sept. 23, 1977, D.C. Law 2-22, title I, § 103(b), 24 DCR 3341.)

**Cross references.** — As to age of majority, see note following § 21-101.

**Legislative history of Law 2-22.** — Law 2-22, the "Prevention of Child Abuse and Neglect Act of 1977," was introduced in Council and assigned Bill No. 2-48, which was referred to the Committee on Human Resources and Aging and the Committee on the Judiciary. The Bill was adopted on first and second readings on May 17, 1977, and May 31, 1977, respectively. Signed by the Mayor on July 6, 1977, it was assigned Act No. 2-53 and transmitted to both Houses of Congress for its review.

**Definitions applicable.** — The definitions in § 6-2101 apply to terms appearing in the 1977 amendment to this section.

**Private cause of action.** — Children in foster care and children reported to have been abused or neglected but not yet in the District's custody have a private cause of action for enforcement of the Prevention of Child Abuse and Neglect Act. *LaShawn A. ex rel. Moore v. Kelly*, 990 F.2d 1319 (D.C. Cir. 1993).

**Cited in** *Battle v. Gaither*, 116 WLR 709 (Super. Ct. 1988); *LaShawn A. v. Dixon*, 762 F. Supp. 959 (D.D.C. 1991), *aff'd*, 990 F.2d 1319 (D.C. Cir. 1993); *Johnson v. United States*, App. D.C., 616 A.2d 1216 (1992), *cert. denied*, — U.S. —, 113 S. Ct. 1611, 123 L. Ed. 2d 172 (1993); *United States v. Jackson*, 121 WLR 849 (Super. Ct. 1993).

## § 2-1352. Persons required to make reports; procedure.

(a) Notwithstanding § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been or is in immediate danger of being a mentally or physically abused or neglected child, as defined in § 16-2301(9), shall immediately report or have a report made of such knowledge or suspicion to either the Metropolitan Police Department of the District of Columbia or the Child Protective Services Division of the Department of Human Services.

(b) Persons required to report such abuse or neglect shall include every physician, psychologist, medical examiner, dentist, chiropractor, registered nurse, licensed practical nurse, person involved in the care and treatment of patients, law-enforcement officer, school official, teacher, social service worker, day care worker, and mental health professional. Whenever a person is required to report in his or her capacity as a member of the staff of a hospital, school, social agency or similar institution, he or she shall immediately notify the person in charge of the institution or his or her designated agent who shall then be required to make the report. The fact that such a notification has been made does not relieve the person who was originally required to report from his or her duty under subsection (a) of this section of having a report made promptly to the Metropolitan Police Department of the District of Columbia or the Child Protective Services Division of the Department of Human Services.

(c) In addition to those persons who are required to make a report, any other person may make a report to the Metropolitan Police Department of the District of Columbia or the Child Protective Services Division of the Department of Human Services.

(d) In addition to the requirements in subsections (a) and (b) of this section, any health professional licensed pursuant to Chapter 33 of this title, or a law enforcement officer, except an undercover officer whose identity or investigation might be jeopardized, shall report immediately, in writing, to the Child Protective Services Division of the Department of Human Services, that the law enforcement officer or health professional has reasonable cause to believe



that a child is abused as a result of inadequate care, control, or subsistence in the home environment due to exposure to drug-related activity. The report shall be in accordance with the provisions of § 2-1353. (Nov. 6, 1966, 80 Stat. 1354, Pub. L. 89-775, § 2; 1973 Ed., § 2-162; Sept. 23, 1977, D.C. Law 2-22, title I, § 103(c), 24 DCR 3341; Mar. 15, 1990, D.C. Law 8-87, § 2(a), 37 DCR 50.)

**Legislative history of Law 2-22.** — See note to § 2-1351.

**Legislative history of Law 8-87.** — Law 8-87, the "Protection of Children from Exposure to Drug-related Activity Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-139, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 21, 1989, and December 5, 1989, respectively. Signed by the Mayor on December 21, 1989, it was assigned Act No. 8-137 and transmitted to both Houses of Congress for its review.

**References in text.** — The Department of Human Services, referred to throughout this section, was substituted for the Department of Human Resources pursuant to Reorganization Plan No. 2 of 1979, dated February 21, 1980.

**Definitions applicable.** — The definitions in § 6-2101 apply to terms appearing in the 1977 amendment to this section.

**Requirements of "reasonable cause" standard.** — The "reasonable cause" standard requires only that the physician has a reason

to believe that a child is abused. *Battle v. Gaither*, 116 WLR 709 (Super. Ct. 1988).

**Failure to satisfy professional standards does not preclude reasonable cause.** — It is possible for a doctor to have reasonable cause to believe that a child is abused, even though his failure to conduct a more thorough investigation failed to satisfy professional standards. *Battle v. Gaither*, 116 WLR 709 (Super. Ct. 1988).

**Fact that suspicions were incorrect did not negate reasonableness of beliefs.** — Fact that subsequent investigation by the authorities proved suspicions of child abuse incorrect did not negate the reasonableness of the physician's beliefs. *Battle v. Gaither*, 116 WLR 709 (Super. Ct. 1988).

**Cited in** *In re D.H.*, 117 WLR 2109 (Super. Ct. 1989); *T.H. v. District of Columbia*, App. D.C., 569 A.2d 1179 (1990); *In re O.L.*, App. D.C., 584 A.2d 1230 (1990); *Johnson v. United States*, App. D.C., 616 A.2d 1216 (1992), cert. denied, — U.S. —, 113 S. Ct. 1611, 123 L. Ed. 2d 172 (1993).

## § 2-1353. Nature and contents of reports.

(a) Each person required to make a report of a known or suspected neglected child shall:

(1) Immediately make an oral report of the case to the Child Protective Services Division of the Department of Human Services or the Metropolitan Police Department of the District of Columbia; and

(2) Make a written report of the case if requested by said Division or Police or if the abuse involves drug-related activity.

(b) The report shall include, but need not be limited to, the following information if it is known to the person making the report:

(1) The name, age, sex, and address of the following individuals:

(A) The child who is the subject of the report;

(B) Each of the child's siblings; and

(C) Each of the child's parents or other persons responsible for the child's care;

(2) The nature and extent of the abuse or neglect of the child and any previous abuse or neglect, if known;

(3) All other information which the person making the report believes may be helpful in establishing the cause of the abuse or neglect and the identity of the person responsible for the abuse or neglect; and

(4) If the source was required to report under this subchapter, the identity and occupation of the source, how to contact the source and a statement of the actions taken by the source concerning the child. (Nov. 6, 1966, 80 Stat. 1354, Pub. L. 89-775, § 3; 1973 Ed., § 2-163; Sept. 23, 1977, D.C. Law 2-22, title I, § 103(d), 24 DCR 3341; Mar. 15, 1990, D.C. Law 8-87, § 2(b), 37 DCR 50.)

**Section references.** — This section is referred to in §§ 6-2101 and 6-2112.

**Legislative history of Law 2-22.** — See note to § 2-1351.

**Legislative history of Law 8-87.** — See note to § 2-1352.

**References in text.** — The Department of Human Services, referred to in subsection

(a)(1) of this section, was substituted for the Department of Human Resources pursuant to Reorganization Plan No. 2 of 1979, dated February 21, 1980.

**Definitions applicable.** — The definitions in § 6-2101 apply to terms appearing in the 1977 amendment to this section.

## § 2-1354. Immunity from liability.

Any person, hospital, or institution participating in good faith in the making of a report pursuant to this subchapter shall have immunity from liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of the report. Any such participation shall have the same immunity with respect to participation in any judicial proceeding involving the report. In all civil or criminal proceedings concerning the child or resulting from the report good faith shall be presumed unless rebutted. (Nov. 6, 1966, 80 Stat. 1354, Pub. L. 89-775, § 4; 1973 Ed., § 2-164; Sept. 23, 1977, D.C. Law 2-22, title I, § 103(e), 24 DCR 3341.)

**Cross references.** — As to qualified immunity in cases of adult abuse and neglect, see § 6-2508.

**Legislative history of Law 2-22.** — See note to § 2-1351.

**Definitions applicable.** — The definitions in § 6-2101 apply to terms appearing in the 1977 amendment to this section.

**Failure to satisfy professional standards did not preclude reasonable cause.** — It is possible for a doctor to have reasonable cause to believe that a child is abused, even though his failure to conduct a more thorough investigation failed to satisfy professional standards. *Battle v. Gaither*, 116 WLR 709 (Super. Ct. 1988).

**Fact that suspicions were incorrect did not negate reasonableness of beliefs.** — Fact that subsequent investigation by the authorities proved suspicions of child abuse incor-

rect does not negate the reasonableness of the physician's beliefs. *Battle v. Gaither*, 116 WLR 709 (Super. Ct. 1988).

**Statutory immunity and presumption of good faith not overcome.** — Allegations of negligence, coupled with the information provided through discovery, failed to overcome the statutory immunity and the presumption of good faith provided to physicians under the child abuse immunity and reporting statutes. *Battle v. Gaither*, 116 WLR 709 (Super. Ct. 1988).

**Defendant was immune from legal liability.** — Where defendant had reasonable cause to suspect that child had been sexually abused and there were no facts in dispute regarding her acting in good faith in reporting the case to the authorities, defendant was immune from legal liability. *Battle v. Gaither*, 116 WLR 709 (Super. Ct. 1988).



## § 2-1355. Privileges; waiver.

Notwithstanding the provisions of §§ 14-306 and 14-307, neither the husband-wife privilege nor the physician-patient privilege shall be grounds for excluding evidence in any proceeding in the Family Division of the Superior Court of the District of Columbia concerning the welfare of a neglected child; provided, that a judge of the Family Division of the Superior Court of the District of Columbia determines such privilege should be waived in the interest of justice. (Nov. 6, 1966, 80 Stat. 1355, Pub. L. 89-775, § 5; July 29, 1970, 84 Stat. 577, Pub. L. 91-358, title I, § 159(a); 1973 Ed., § 2-165; Sept. 23, 1977, D.C. Law 2-22, title I, § 103(f), 24 DCR 3341.)

**Legislative history of Law 2-22.** — See note to § 2-1351.

**Definitions applicable.** — The definitions in § 6-2101 apply to terms appearing in the 1977 amendment to this section.

**Applicability.** — The waiver provision of this section applies to any proceeding concerning the welfare of a neglected child. In re D.H., 117 WLR 2109 (Super. Ct. 1989).

The legislature intended the waiver authorization of this section to extend to cases beyond those that actually arose from a report made by a doctor. In re D.H., 117 WLR 2109 (Super. Ct. 1989).

The waiver provision in this section applies to a child who is the subject of a neglect proceeding. In re O.L., App. D.C., 584 A.2d 1230 (1990).

**Physician-patient privilege.** — The absence of a statutory physician-patient privilege in child neglect proceedings, as a result of the exception created by this section, does not significantly or impermissibly infringe on any privacy right that a parent may have regarding medical information. T.H. v. District of Columbia, App. D.C., 569 A.2d 1179 (1990).

Waiver of the parent's physician-patient privilege in a neglect proceeding can occur only where the court determines that such waiver would be in the interest of justice. In re O.L., App. D.C., 584 A.2d 1230 (1990).

A determination that such a waiver would be in the interest of justice cannot be automatic; on the contrary, it requires the judicious exer-

cise of discretion. In re O.L., App. D.C., 584 A.2d 1230 (1990).

**"Evidence".** — The waiver in this section applies to "evidence," and this term is broad enough to encompass information possessed by a doctor or other health professional, whether that information was previously required to be disclosed or not. In re D.H., 117 WLR 2109 (Super. Ct. 1989).

**Mental illness and drug abuse.** — In a child neglect proceeding based on the mother's alleged mental illness and drug abuse, the trial judge may, over the mother's objection, "waive" her physician-patient privilege with respect to past professional evaluations of her mental condition. In re O.L., App. D.C., 584 A.2d 1230 (1990).

**Mental health information.** — Information concerning the mental health of a mother must be obtained through § 16-2315(e)(1) rather than this section, since the legislative history of this section shows that that provision was not intended to effect a general waiver on the doctor-patient privilege in neglect trials; rather, the legislature prescribed a special examination procedure in § 16-2315(e)(1). In re O.L., 117 WLR 1329 (Super. Ct. 1989).

Cited in *Vassiliades v. Garfinckel's*, App. D.C., 492 A.2d 580 (1985); *Johnson v. United States*, App. D.C., 616 A.2d 1216 (1992), cert. denied, — U.S. —, 113 S. Ct. 1611, 123 L. Ed. 2d 172 (1993); *United States v. Jackson*, 121 WLR 849 (Super. Ct. 1993).

## § 2-1356. Exceptions for treatment solely by spiritual means.

Notwithstanding any other provision of this subchapter, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered to have been neglected within the purview of this subchapter. (Nov. 6, 1966, 80 Stat. 1355, Pub. L. 89-775, § 6; 1973 Ed., § 2-166.)



**Temporary amendment of section.** — Section 2 of D.C. Law 10-61 amended this section to read as follows:

"Instances where it is suspected that medical treatment is being withheld from a child because of religious objections to such treatment shall be reported in the same manner provided for in this subchapter for reporting instances of suspected neglect."

Section 3(b)[5(b)] of D.C. Law 10-61 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the Prevention of Child Neglect Amendment Act of 1993, whichever occurs first.

**Emergency act amendments.** — For tem-

porary amendment of section, see § 2 of the Prevention of Child Neglect Emergency Amendment Act of 1993 (D.C. Act 10-100, August 9, 1993, 40 DCR 6141).

**Legislative history of Law 10-61.** — Law 10-61, the "Prevention of Child Neglect Temporary Amendment Act of 1993," was introduced in Council and assigned Bill No. 10-374. The Bill was adopted on first and second readings on July 21, 1993, and September 21, 1993, respectively. Signed by the Mayor on October 1, 1993, it was assigned Act No. 10-114 and transmitted to both Houses of Congress for its review. D.C. Law 10-61 became effective on November 20, 1993.

## § 2-1357. Failure to make report.

Any person required to make a report under this subchapter who willfully fails to make such a report shall be fined not more than \$100 or imprisoned for not more than 30 days or both. Violations of this subchapter shall be prosecuted by the Corporation Counsel of the District of Columbia or his or her agent in the name of the District of Columbia. (Nov. 6, 1966, Pub. L. 89-775, § 7; 1973 Ed., § 2-167; Sept. 23, 1977, D.C. Law 2-22, title I, § 103(g), 24 DCR 3341.)

**Legislative history of Law 2-22.** — See note to § 2-1351.

**Definitions applicable.** — The definitions in § 6-2101 apply to terms appearing in this section.

Cited in *Battle v. Gaither*, 116 WLR 709 (Super. Ct. 1988); *Johnson v. United States*, App. D.C., 616 A.2d 1216 (1992), cert. denied, — U.S. —, 113 S. Ct. 1611, 123 L. Ed. 2d 172 (1993).

### *Subchapter III. Reporting of Injuries Caused by Firearms or Other Dangerous Weapons.*

## § 2-1361. Reports by physicians and institutions required.

Any physician in the District of Columbia, including persons licensed under Chapter 33 of this title, having reasonable cause to believe that a person brought to him or coming before him for examination, care, or treatment has suffered injury caused by a firearm, whether self-inflicted, accidental, or occurring during the commission of a crime, or has suffered injury caused by any dangerous weapon in the commission of a crime, shall report or cause reports to be made in accordance with this subchapter; provided, that when a physician in the performance of service as a member of the staff of a hospital or similar institution attends any person so injured, he shall notify the person in charge of the hospital or institution or his designated agent who shall report or cause reports to be made in accordance with this subchapter. (Nov. 6, 1966, 80 Stat. 1355, Pub. L. 89-776, § 1; 1973 Ed., § 2-181; May 10, 1989, D.C. Law 7-231, § 7, 36 DCR 492.)

**Legislative history of Law 7-231.** — Law 7-231, the "Technical Amendments Act of 1988," was introduced in Council and assigned Bill No. 7-586, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-285 and transmitted to both Houses of Congress for its review.

**Congressional intent.** — Congress in-

tended for certain medical information regarding gunshot injuries to be protected by the physician-patient privilege of § 14-307(a), and therefore considered such information confidential, even though it has to be disclosed to the police pursuant to the requirements of the Firearms Reporting Statutes (§ 2-1361 et seq.). *United States v. Jackson*, 121 WLR 849 (Super. Ct. 1993).

**Cited in** *Vassiliades v. Garfinckel's*, App. D.C., 492 A.2d 580 (1985).

## § 2-1362. Nature and contents of reports.

An oral report shall be made immediately by telephone or otherwise, and followed as soon thereafter as possible by a report in writing, to the Metropolitan Police Department of the District of Columbia. Such reports shall contain, if readily available, the name, address, and age of the injured person, and shall also contain the nature and extent of the person's injuries, and any other information which the physician or other person required to make the report believes might be helpful in establishing the cause of the injuries and the identity of the person who caused the injuries. (Nov. 6, 1966, 80 Stat. 1355, Pub. L. 89-775, § 2; 1973 Ed., § 2-182.)

**Congressional intent.** — Congress intended for certain medical information regarding gunshot injuries to be protected by the physician-patient privilege of § 14-307(a), and therefore considered such information confi-

dential, even though it has to be disclosed to the police pursuant to the requirements of the Firearms Reporting Statutes (§ 2-1361 et seq.). *United States v. Jackson*, 121 WLR 849 (Super. Ct. 1993).

## § 2-1363. Immunity from liability.

Any person, hospital, or institution participating in good faith in the making of a report pursuant to this subchapter shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of such report. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report. (Nov. 6, 1966, 80 Stat. 1355, Pub. L. 89-776, § 3; 1973 Ed., § 2-183.)

CHAPTER 14. ANATOMICAL BOARD.

Sec.

2-1401. Anatomical Board created; purpose; composition; bylaws; officers and agents; records.

2-1402. Dead bodies for burial at public expense to be reported to Board; removal; exceptions.

2-1403. Receipt of bodies; distribution; notice.

2-1404. Bond furnished by school receiving bodies.

Sec.

2-1405. Bodies to be used in District; duty of persons receiving bodies; disposal of remains.

2-1406. Unlawful acts.

2-1407. Bodies to be delivered at expense of receiving institutions.

2-1408. Wilful neglect, refusal, or failure to perform duties.

2-1409. Prosecutions.

**§ 2-1401. Anatomical Board created; purpose; composition; bylaws; officers and agents; records.**

There shall be, and is hereby created, in and for the District of Columbia, a board for the control of the dead human bodies hereinafter described, and for the distribution of such bodies among and to the schools in said District conferring the degree of doctor of medicine, doctor of dental surgery, or associate in applied science in mortuary science; the Post Graduate School of Medicine, incorporated by an Act of Congress, approved February 7, 1896, entitled "An Act to incorporate the Post Graduate School of Medicine of the District of Columbia"; the medical schools of the United States Army, Air Force, and Navy; the medical examining boards of the United States Army, Air Force, Navy, and Public Health Service; and the Commission on Licensure for the Practice of the Healing Arts. Said board shall be known as the "Anatomical Board of the District of Columbia," and shall consist of the Director of the Department of Human Services of said District and 2 representatives from each school aforesaid actually engaged in teaching, to be selected by and from the faculty thereof in accordance with the bylaws of such faculty, except in the case of the medical schools of the United States Army, Air Force, and Navy, the representatives from which shall be selected and detailed by the Surgeon General of the Army, the Surgeon General of the Air Force, and the Surgeon General of the Navy. Said Anatomical Board shall have full power to establish bylaws for its government and to appoint and to remove proper officers and agents, and shall keep full and complete records of its transactions and of all material facts pertaining to the receipt and distribution of bodies. Said records shall be open at all times for inspection by any member of said Anatomical Board and by the United States Attorney for the District of Columbia. (Apr. 29, 1902, 32 Stat. 173, ch. 638, § 1; Aug. 14, 1912, 37 Stat. 309, ch. 288; Feb. 27, 1929, 45 Stat. 1326, ch. 352; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1; 1973 Ed., § 2-201; Mar. 10, 1983, D.C. Law 4-199, § 8(a), 30 DCR 119.)

**Cross references.** — As to funeral and burial expenses of public assistance recipients, see § 3-214.2. As to funeral and burial expenses of indigents and wards of District, see § 3-214.3. As to disposition of human bodies, see § 27-119. As to public crematory, see §§ 27-129 to 27-131.

**Legislative history of Law 4-199.** — Law 4-199, the "Christmas Tree Act of 1982," was introduced in Council and assigned Bill No. 4-427, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 16, 1982, and December 14, 1982, respectively. Signed



by the Mayor on December 28, 1982, it was assigned Act No. 4-283 and transmitted to both Houses of Congress for its review.

**Transfer of functions.** — All functions of the Public Health Service and of all officers and employees thereof and all functions of all agencies of or in the Public Health Service were transferred to Secretary of Health, Education, and Welfare by 1966 Reorganization Plan No. 3, 80 Stat. 1610. The functions of the Department of Health, Education, and Welfare were transferred to the Department of Health and Human Services by the Act of October 17, 1979, 93 Stat. 675, Pub. L. 96-88, § 509.

**Commission on Licensure to Practice the Healing Art abolished.** — The Commission on Licensure to Practice the Healing Art in the District of Columbia was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. The functions were delegated to the Department of Occupations and Professions by Reorganization Order No. 59, dated June 30, 1953. Section 402(34) of Reorganization Plan No. 3 of 1967 transferred the regulatory and other functions of the Board of Commissioners under this section, insofar as they relate to making and altering rules and altering and adopting a common seal, to the District of Columbia Council, subject to the right of the Commissioner as provided by § 406 of the Plan. Section 401 of the Plan transferred all other functions of the Board of Commissioners under this section to the Commissioner of the District of Columbia. The functions delegated to the Department of Occupations and Professions were subsequently transferred to the Director of the Department of Economic Development by Commissioner's Order No. 69-96, dated March 7, 1969. The Department of Economic Develop-

ment was replaced by Mayor's Order 78-42, dated February 17, 1978, which Order established the Department of Licenses, Investigation and Inspections.

The functions of the Department of Licenses, Investigations and Inspections were transferred to the Director of the Department of Consumer and Regulatory Affairs by Reorganization Plan No. 1 of 1983, effective March 31, 1983.

**Anatomical Board abolished.** — The Anatomical Board was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 57 of the Board of Commissioners, dated June 30, 1953, established, under the direction and control of a Commissioner, a Department of Public Health headed by a Director, and reestablished the Anatomical Board under the direction and control of the Director of Public Health. Reorganization Order No. 57 was combined with Reorganization Order No. 52 and redesignated Organization Order No. 141, dated February 11, 1964. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions of the Department of Public Health under Organization Order No. 141 were transferred to the Department of Human Resources by Commissioner's Order No. 69-96. The Department of Public Health was replaced by Commissioner's Order No. 70-83, dated March 6, 1970, which Order established the Department of Human Resources. The Department of Human Resources was replaced by Reorganization Plan No. 2 of 1979, dated February 21, 1980, which established the Department of Human Services.

## § 2-1402. Dead bodies for burial at public expense to be reported to Board; removal; exceptions.

Every public officer, agent, and servant, and every officer, agent, and servant of any and every almshouse, prison, jail, asylum, morgue, hospital, and other public institutions and offices having charge or control of dead human bodies requiring to be buried at public expense, shall notify said Anatomical Board, or such person as may be designated by the said Board, whenever any dead human body comes into his possession, charge, or control for burial at public expense. And every such officer, agent, and servant shall, upon application by said Anatomical Board or its agent, without fee or reward, and complying with the laws and regulations governing the removal of dead human bodies in the District of Columbia, deliver every such body to said Board and permit said Board or its agent to take and remove the same. The notice aforesaid shall be given in writing and forwarded to said Anatomical Board

within 24 hours after said officer, agent, or servant comes into possession, charge, or control of such body for burial, and shall include such material information as said Board may designate. But no such body shall be delivered if the deceased person, during his last illness, without suggestion or solicitation, requested to be buried or cremated; or if within the time specified above and before the actual delivery thereof any person claiming to be and satisfying the officer in charge of such body that he is of kindred or is related by marriage to the deceased shall claim the said body for burial or cremation, or request in writing that it be buried at public expense; or if within the time specified above and before actual delivery any person claiming to be and satisfying the officer in charge of said body that he is a friend of the deceased arranges to have the same properly buried or cremated without expense to the District; or if the deceased person was a traveler who died suddenly; but in any such case said body shall be buried or delivered to said applicant for burial. (Apr. 29, 1902, 32 Stat. 173, ch. 638, § 2; 1973 Ed., § 2-202.)

**Anatomical Board abolished.** — See note to § 2-1401.

**Minimum time period to hold unclaimed body.** — The time period provided in the municipal regulations (22 DCMR § 2407.1) is the minimum time period, rather than the maximum time period, for which the Chief Medical Examiner must hold an unclaimed body to allow family to claim the body. *Community for*

*Creative Non-Violence v. Gray*, 121 WLR 557 (Super. Ct. 1993).

**Delay in release of body.** — If the statutory duties imposed by statute upon the Chief Medical Examiner have not been accomplished within the period after which the body should be released, there is a legitimate reason for delay. *Community for Creative Non-Violence v. Gray*, 121 WLR 557 (Super. Ct. 1993).

## § 2-1403. Receipt of bodies; distribution; notice.

The said Anatomical Board may receive the bodies reported to it as aforesaid, and may distribute and deliver such as are received among and to such of the schools and boards entitled thereto as request in writing to receive the same, except as otherwise expressly directed in this chapter. Each such school and board shall receive annually, as nearly as may be practicable, such proportion of the entire number of bodies distributed as the number of students enrolled and in regular attendance at such school, and the number of candidates appearing for examination before such board, respectively, engaged bona fide at such school, or examined by said board in dissecting, and operative surgery on the cadaver, bears to the total number of students so enrolled in attendance, and engaged, and of persons so examined, in the District of Columbia. The secretary, dean, or other proper officer of each such school and board shall report to said Anatomical Board the names of all such students in attendance at such school or persons examined by said board, as the case may be, at such times and in such form as said Board may direct. All bodies shall be delivered among such schools and boards in regular order so as to maintain, as nearly as may be practicable, an equitable allotment at all times; and bodies assigned to any school or board in regular order and refused by such school or board without sufficient cause shall be charged against the quota of such school or board in such manner as not to prejudice any other school or board. But no body shall be delivered to any school or board unless within not



less than 24 hours prior to such delivery notice of the death has been given by said Anatomical Board to the nearest known kinsman, relative by marriage, or friend of the deceased, or if none such be known, published by said Anatomical Board at least once in a daily newspaper published in the City of Washington, District of Columbia. The notice required by this section shall be deemed to have been given if served in writing on the person to be notified, or if left at his usual place of residence with some adult person residing therein, or a member of the family of such person. Said Board shall take receipts by name, or, if the name be unknown, by a description, for each body delivered; all receipts so obtained by said Board shall be properly filed by it. (Apr. 29, 1902, 32 Stat. 174, ch. 638, § 3; 1973 Ed., § 2-203.)

**Anatomical Board abolished.** — See note to § 2-1401.

### § 2-1404. Bond furnished by school receiving bodies.

No school except the medical schools of the United States Army, Air Force, and Navy shall receive any body under the provisions of this chapter until said school has given bond to the District of Columbia, and the Mayor of the District of Columbia has approved such bond, which said bond shall be in the penal sum of \$200 and conditioned that all bodies which said school shall receive shall be used in said District and only for the promotion of the medical, dental, or mortuary sciences. (Apr. 29, 1902, 32 Stat. 174, ch. 638, § 4; 1973 Ed., § 2-204; Mar. 10, 1983, D.C. Law 4-199, § 8(b), 30 DCR 119.)

**Legislative history of Law 4-199.** — See note to § 2-1401.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

### § 2-1405. Bodies to be used in District; duty of persons receiving bodies; disposal of remains.

It shall be the duty of each and every officer, agent, and employee of every school and board receiving bodies under the provisions of this chapter to see that such bodies are used in the District of Columbia and for the promotion of the medical, dental, or mortuary sciences, and for no other purpose whatsoever, and that after being so used the remains thereof are disposed of in accordance with law. (Apr. 29, 1902, 32 Stat. 174, ch. 638, § 5; 1973 Ed., § 2-205; Mar. 10, 1983, D.C. Law 4-199, § 8(c), 30 DCR 119.)



**Legislative history of Law 4-199.** — See note to § 2-1401.

**§ 2-1406. Unlawful acts.**

Any person who shall, in the District of Columbia, sell or buy any body aforesaid, or in any way traffic therewith, or transmit or convey any such body to any place outside of said District, or cause or procure any such body to be so transmitted or conveyed, or who shall, in said District, disturb or remove, without legal permit, any body from any grave or vault, shall, on conviction thereof, be fined not more than \$200 or imprisoned in the Workhouse of said District for not more than 1 year. (Apr. 29, 1902, 32 Stat. 175, ch. 638, § 6; 1973 Ed., § 2-206.)

**Cross references.** — As to criminal penalty for grave robbery and buying or selling dead bodies, see § 22-3103.

**§ 2-1407. Bodies to be delivered at expense of receiving institutions.**

Neither the United States nor the District of Columbia, nor any officer, agent, or servant thereof, shall be at any expense by reason of the delivery of any body or bodies aforesaid, except such as may be properly chargeable on account of bodies delivered to the medical schools of the Army, Air Force, and Navy, the medical examining boards of the Army, the Air Force, the Navy, and the Public Health Service, and the Commission on Licensure to the Practice of the Healing Art; but all expenses of such delivery and distribution, except as hereinbefore specified, and of said Anatomical Board, shall be paid by the schools receiving such bodies, in such manner as may be specified by said board and by such school in proportion to the number of bodies which it has received; and no school which has failed or refused to pay its just proportion of such expense as determined by said board shall be allowed to receive any body or bodies, or parts thereof, while the amount so due remains unpaid. (Apr. 29, 1902, 32 Stat. 175, ch. 638, § 7; Aug. 14, 1912, 37 Stat. 309, ch. 288; Feb. 27, 1929, 45 Stat. 1326, ch. 352; 1973 Ed., § 2-207.)

**Transfer of functions.** — All functions of the Public Health Service and of all officers and employees thereof and all functions of all agencies of or in the Public Health Service were transferred to Secretary of Health, Education, and Welfare by 1966 Reorganization Plan No. 3, 80 Stat. 1610. The functions of the Department of Health, Education, and Welfare were transferred to the Department of Health and Human Services by the Act of October 17, 1979, 93 Stat. 675, Pub. L. 96-88, § 509.

**Commission on Licensure to Practice the Healing Art abolished.** — The Commission on Licensure to Practice the Healing Art in the District of Columbia was abolished and the functions thereof transferred to the Board of

Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. The functions were delegated to the Department of Occupations and Professions by Reorganization Order No. 59, dated June 30, 1953. Section 402(34) of Reorganization Plan No. 3 of 1967 transferred the regulatory and other functions of the Board of Commissioners under this section, insofar as they relate to making and altering rules and altering and adopting a common seal, to the District of Columbia Council, subject to the right of the Commissioner as provided by § 406 of the Plan. Section 401 of the Plan transferred all other functions of the Board of Commissioners under this section to the Commissioner of the District of Columbia.

The functions delegated to the Department of Occupations and Professions were subsequently transferred to the Director of the Department of Economic Development by Commissioner's Order No. 69-96, dated March 7, 1969. The Department of Economic Development was replaced by Mayor's Order 78-42, dated February 17, 1978, which Order established the Department of Licenses, Investigation and Inspections.

The functions of the Department of Licenses, Investigations and Inspections were transferred to the Director of the Department of Consumer and Regulatory Affairs by Reorganization Plan No. 1 of 1983, effective March 31, 1983.

**Anatomical Board abolished.** — See note to § 2-1401.

## **§ 2-1408. Wilful neglect, refusal, or failure to perform duties.**

Any person having any duty enjoined upon him by the provisions of this chapter who wilfully neglects, refuses, or fails to perform the same, shall, upon conviction thereof, be punished by a fine of not more than \$100 or by imprisonment in the Workhouse of the District of Columbia for not more than 1 year. (Apr. 29, 1902, 32 Stat. 175, ch. 638, § 8; 1973 Ed., § 2-208.)

## **§ 2-1409. Prosecutions.**

All prosecutions under this chapter shall be in the Superior Court of the District of Columbia, on information brought in the name of said District on its behalf. (Apr. 29, 1902, 32 Stat. 175, ch. 638, § 9; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 78, Pub. L. 88-60, § 6; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 2-209.)

CHAPTER 15. ANATOMICAL GIFTS.

Sec.

2-1501. Definitions; short title.

2-1502. Persons eligible to execute gifts; non-acceptance by donee; rights of donee created by gift.

2-1503. Persons who may become donees; purposes for which gifts may be made.

2-1504. Manner of executing gifts.

Sec.

2-1505. Delivery of documents of gift.

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2-1507. Duties of donee; determination of time of death; immunity.

2-1508. Construction.

2-1509. Duties of hospitals and hospices.

2-1510. Certificate requirement.

2-1511. Rules.

§ 2-1501. Definitions; short title.

(a) As used in this chapter, the term:

(1) "Bank or storage facility" means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts thereof.

(2) "Decedent" means a deceased individual and includes a stillborn infant or fetus.

(3) "Donor" means an individual who makes a gift of all or part of his body.

(4) "Hospital" means a hospital licensed, accredited, or approved under the laws of any state and includes a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws.

(5) "Part" includes organs, tissues, eyes, bones, arteries, blood, other fluids, and other portions of a human body, and "part" includes "parts."

(6) "Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, or association or any other legal entity.

(7) "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any state.

(8) "State" includes any state, district, commonwealth, territory, insular possession, the District of Columbia, and any other area subject to the legislative authority of the United States of America.

(b) This chapter shall be known as the "District of Columbia Anatomical Gift Act." (May 26, 1970, 84 Stat. 266, Pub. L. 91-268, § 1; 1973 Ed., § 2-271.)

**Cross references.** — As to human tissue banks, see §§ 2-1601 to 2-1608.

§ 2-1502. Persons eligible to execute gifts; nonacceptance by donee; rights of donee created by gift.

(a) Any individual of sound mind and 18 years of age or more may give all or any part of his body for any purposes specified in § 2-1503, the gift to take effect upon death.

(b) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of



actual notice of contrary indications by the decedent, or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purposes specified in § 2-1503:

- (1) The spouse;
- (2) An adult son or daughter;
- (3) Either parent;
- (4) An adult brother or sister;
- (5) A guardian of the person of the decedent at the time of his death;
- (5A) The Chief Medical Examiner or designee; or
- (6) Any other person authorized or under obligation to dispose of the body.

(c) If the donee has actual notice of contrary indications by the decedent, or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection (b) of this section may make the gift after death or immediately before death.

(d) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(e) The rights of the donee created by the gift are paramount to the rights of others except as provided by § 2-1507 (d). (May 26, 1970, 84 Stat. 266, Pub. L. 91-268, § 2; 1973 Ed., § 2-272; Sept. 29, 1992, D.C. Law 9-157, § 2, 39 DCR 5686.)

**Section references.** — This section is referred to in §§ 2-1504 and 2-1509.

**Effect of amendments.** — D.C. Law 9-157 inserted (b)(5A).

**Legislative history of Law 9-157.** — Law 9-157, the "Tissue Transplantation Distribution Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-278, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 2, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 21,

1992, it was assigned Act No. 9-251 and transmitted to both Houses of Congress for its review. D.C. Law 9-157 became effective on September 29, 1992.

**Mayor authorized to issue rules.** — Section 4 of D.C. Law 9-157 provided that the Mayor shall issue rules to implement the provisions of the act.

**Delegation of Authority Pursuant to D.C. Law 9-157, the "Tissue Transplantation Distribution Amendment Act of 1992".** — See Mayor's Order 93-61, May 12, 1993.

## § 2-1503. Persons who may become donees; purposes for which gifts may be made.

The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

(1) Any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation;

(2) Any accredited medical or dental school, college, or university, for education, research, advancement of medical or dental science, or therapy;

(3) Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(4) Any specified individual for therapy or transplantation needed by him. (May 26, 1970, 84 Stat. 267, Pub. L. 91-268, § 3; 1973 Ed., § 2-273.)

**Section references.** — This section is referred to in § 2-1502.

## § 2-1504. Manner of executing gifts.

(a) A gift of all or part of the body under § 2-1502(a) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b)(1) A gift of all or part of the body under § 2-1502(a) may also be made by document other than a will. The gift becomes effective upon death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor, in the presence of 2 witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence, and in the presence of 2 witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(2) Any such document referred to in paragraph (1) of this subsection may be in the following form and contain the following information:

### UNIFORM DONOR CARD

of

---

print or type name of donor

In the hope that I may help others, I hereby make this anatomical gift, if medically acceptable, to take effect upon my death. The words and marks below indicate my desires.

- I give: (a) — any needed organs or parts  
(b) — only the following organs or parts

---

specify the organ(s) or part(s)

for the purposes of transplantation, therapy, medical research, or education;

- (c) — my body for anatomical study if needed.

Limitations or special wishes, if any: \_\_\_\_\_

(Other side of card)

Signed by the donor and the following 2 witnesses in the presence of each other:

_____ Signature of donor	_____ Date of birth of donor
_____ Date signed	_____ City and State
_____ Witness	_____ Witness

This is a legal document under the District of Columbia Anatomical Gift Act or similar laws.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(d) Notwithstanding § 2-1507(b), the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation, or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(e) Any gift by a person designated in § 2-1502(b) shall be made by a document signed by him, or made by his telegraphic, recorded telephonic, or other recorded message. (May 26, 1970, 84 Stat. 267, Pub. L. 91-268, § 4; 1973 Ed., § 2-274.)

**Section references.** — This section is referred to in § 40-301.

## § 2-1505. Delivery of documents of gift.

If the gift is made by the donor to a specified donee, the will, card, or other document, or any executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death, but delivery is not necessary to the validity of the gift. The will, card, or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility, or registry office that accepts them for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination. (May 26, 1970, 84 Stat. 269, Pub. L. 91-268, § 5; 1973 Ed., § 2-275.)

## § 2-1506. Amendment or revocation of gift.

(a) If the will, card, or other document or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by:



- (1) The execution and delivery to the donee of a signed statement;
  - (2) An oral statement made in the presence of two persons and communicated to the donee;
  - (3) A statement during a terminal illness or injury addressed to an attending physician and communicated to the donee; or
  - (4) A signed card or document found on his person or in his effects.
- (b) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (a) of this section or by destruction, cancellation, or mutilation of the document and all executed copies thereof.
- (c) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as provided in subsection (a) of this section. (May 26, 1970, 84 Stat. 269, Pub. L. 91-268, § 6; 1973 Ed., § 2-276.)

### § 2-1507. Duties of donee; determination of time of death; immunity.

(a) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin or other persons under obligation to dispose of the body.

(b) The time of death shall be determined by a physician who attends the donor at his death, or, if none, the physician who certifies the death. This physician shall not participate in the procedures for removing or transplanting a part.

(c) A person, who acts in good faith, in accord with the terms of this chapter or under the anatomical gift laws of another state, is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

(d) The provisions of this chapter are subject to the laws of the District of Columbia prescribing powers and duties with respect to autopsies. (May 26, 1970, 84 Stat. 269, Pub. L. 91-268, § 7; 1973 Ed., § 2-277.)

**Section references.** — This section is referred to in §§ 2-1502 and 2-1504.

### § 2-1508. Construction.

This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enacted it. (May 26, 1970, 84 Stat. 270, Pub. L. 91-268, § 8; 1973 Ed., § 2-278.)

## § 2-1509. Duties of hospitals and hospices.

(a) As of January 1, 1988, whenever a patient of a hospital or hospice dies, is determined to be a suitable candidate for organ or tissue donation, and has not made an anatomical gift by will or uniform donor card, a representative of the hospital or hospice shall, in accordance with § 2-1502(b) and (c), request a person authorized by § 2-1502(b) to consent to an anatomical gift of all or part of the decedent's body.

(b) The request required by subsection (a) of this section shall be made only if a nonprofit organ or tissue bank or retrieval organization has notified the hospital or hospice that a donation can be properly obtained and used in a manner consistent with accepted medical standards.

(c) Upon the discovery of a properly executed uniform donor card or the receipt of a consent under subsection (a) of this section, a hospital or hospice shall immediately notify a nonprofit organ or tissue bank or retrieval organization and shall cooperate in procuring the anatomical gift. (May 26, 1970, Pub. L. 91-268, § 10, as added Feb. 28, 1987, D.C. Law 6-194, § 2, 34 DCR 479.)

**Section references.** — This section is referred to in §§ 2-1510 and 2-1511.

**Legislative history of Law 6-194.** — Law 6-194, the "District of Columbia Anatomical Gift Amendments Act of 1986," was introduced in Council and assigned Bill No. 6-467, which was referred to the Committee on Human Ser-

vices. The Bill was adopted on first and second readings on November 18, 1986, and December 16, 1986, respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-252 and transmitted to both Houses of Congress for its review.

## § 2-1510. Certificate requirement.

(a) Whenever a request for consent is made pursuant to § 2-1509, the hospital or hospice representative making the request shall complete a certificate of request for an anatomical gift on a form to be supplied by the Mayor. The certificate shall include the following:

(1) A statement indicating that a request for an anatomical gift was made;

(2) The name and affiliation of the person making the request;

(3) An indication of whether consent was granted and, if so, what organs and tissues were donated; and

(4) The name of the person granting or refusing the request, and his or her relationship to the decedent.

(b) A copy of the certificate described in subsection (a) of this section shall be included in the decedent's medical record. (May 26, 1970, Pub. L. 91-268, § 11, as added Feb. 28, 1987, D.C. Law 6-194, § 2, 34 DCR 479.)

**Section references.** — This section is referred to in § 2-1511.

**Legislative history of Law 6-194.** — See note to § 2-1509.

**§ 2-1511. Rules.**

The Mayor shall, no later than August 1, 1987, and pursuant to subchapter I of Chapter 15 of Title 1, issue all rules necessary to carry out the purposes of §§ 2-1509 and 2-1510. These rules shall at a minimum include:

(1) Standards for the training and qualification of those hospital and hospice representatives who have been designated to make consent requests pursuant to § 2-1509;

(2) Procedures to be used when making consent requests under § 2-1509; and

(3) Procedures to facilitate effective coordination among hospitals, hospices, other health-care facilities and agencies, organ and tissue banks, and retrieval organizations. (May 26, 1970, Pub. L. 91-268, § 12, as added Feb. 28, 1987, D.C. Law 6-194, § 2, 34 DCR 479.)

**Legislative history of Law 6-194.** — See **6-194.** — See Mayor's Order 87-145, June 19, 1987.  
note to § 2-1509.

**Delegation of authority pursuant to Law**



## CHAPTER 16. HUMAN TISSUE BANKS.

Sec.

2-1601. Statement of policy and purpose.

2-1602. Definitions.

2-1603. Licenses.

2-1604. Penalties; prosecutions.

2-1605. Chief Medical Examiner.

Sec.

2-1606. Exemptions from chapter.

2-1607. Construction.

2-1608. Authority of licensed blood banks to transfer blood components within District.

## § 2-1601. Statement of policy and purpose.

Because of the rapid medical progress in the field of tissue preservation, tissue transplantation, and tissue culture, and because it is in the public interest to aid the development of this field of medicine, it is the policy and purpose of Congress in enacting this chapter and the amendments to §§ 27-119 and 27-125 to encourage and aid the development of reconstructive medicine and surgery and the development of medico-surgical research by providing for the licensing and regulation of tissue banks, and by facilitating antemortem and postmortem authorizations for donations of tissue. (Sept. 10, 1962, 76 Stat. 534, Pub. L. 87-656, § 2; 1973 Ed., § 2-251.)

**Cross references.** — As to Anatomical Board, see Chapter 14 of this title. As to anatomical gifts, see §§ 2-1501 to 2-1508. As to cemeteries and crematories, see Title 27.

## § 2-1602. Definitions.

For the purposes of this chapter and §§ 27-119 and 27-125, except where the context indicates a different meaning:

(1) "Mayor" means the Mayor of the District of Columbia or his designated agent.

(2) "Donor" means any person who, in accordance with the provisions of Chapter 15 of this title, bequeaths or donates his tissue for removal after death in furtherance of the purposes of such chapter, and also means any deceased person whose tissue is donated or disposed of for the purposes of this chapter, Chapter 15 of this title, and §§ 27-119 and 27-125.

(3) "Tissue" means any body of a dead human or any portion thereof, including organs, tissues, eyes, bones, arteries, blood, and other fluids.

(4) "Tissue bank" means a facility for procuring, removing, and disposing of tissue for the purposes set forth in Chapter 15 of this title, and for the purposes of reconstructive medicine and surgery, and research and teaching in reconstructive medicine and surgery. (Sept. 10, 1962, 76 Stat. 534, Pub. L. 87-656, § 3; May 26, 1970, 84 Stat. 270, Pub. L. 91-268, § 9(a); 1973 Ed., § 2-252.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reor-

ganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia.

These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to

§ 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-1603. Licenses.

(a) No person shall operate any tissue bank in the District of Columbia without a valid license issued pursuant to this chapter and §§ 27-119 and 27-125. No such license shall be issued except to persons duly licensed or duly registered as physicians under Chapter 33 of this title or to persons holding valid licenses to operate and maintain hospitals for humans pursuant to the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983.

(b) The Council of the District of Columbia is authorized, after public hearing, to adopt and promulgate rules and regulations to carry out the purposes of this chapter and Chapter 15 of this title, including, without limitation, rules and regulations prescribing:

(1) The terms and conditions under which a tissue bank license may be issued and renewed;

(2) The fees to be paid for the issuance and renewal of such licenses;

(3) The duration of such licenses;

(4) The grounds for suspension and revocation of such licenses;

(5) The operation of tissue banks;

(6) The conditions under which tissue may be processed, preserved, stored, and transported; and

(7) The making, keeping, and disposition of records by tissue banks or by other persons processing, preserving, storing, or transporting tissue.

(c) The Mayor may, after notice and hearing, deny, suspend, or revoke any tissue bank license issued or applied for pursuant to this chapter and §§ 27-119 and 27-125.

(d) Any person aggrieved by any final decision or final order of the Mayor denying, suspending, or revoking any tissue bank license or renewal thereof, issued or applied for under this chapter and §§ 27-119 and 27-125, may obtain a review of such decision or order in the District of Columbia Court of Appeals.

(e) Except with respect to the provisions as to licensing, the provisions of this chapter and §§ 27-119 and 27-125, and the regulations made pursuant thereto, shall apply to federal agencies situated in the District of Columbia, and to District of Columbia agencies. (Sept. 10, 1962, 76 Stat. 535, Pub. L. 87-656, § 4; July 8, 1963, 77 Stat. 78, Pub. L. 88-60, § 6; May 26, 1970, 84 Stat. 270, Pub. L. 91-268, § 9(b); July 29, 1970, 84 Stat. 585, Pub. L. 91-358, title I, § 164(f); 1973 Ed., § 2-253; May 10, 1989, D.C. Law 7-231, § 8, 36 DCR 492.)

**Section references.** — This section is referred to in § 27-125.

**Legislative history of Law 7-231.** — Law 7-231, the "Technical Amendments Act of 1988," was introduced in Council and assigned

Bill No. 7-586, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it

was assigned Act No. 7-285 and transmitted to both Houses of Congress for its review.

**References in text.** — "The Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983", referred to in the second sentence of (a), is D.C. Law 5-48.

**Editor's notes.** — Sections 32-101 to 32-105, referred to in subsection (a), were repealed by the Act of February 24, 1984, D.C. Law 5-48, § 12(i), 30 DCR 5778. See now §§ 32-1301 to 32-1309, 32-1401 to 32-1461.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section

402(36) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-1604. Penalties; prosecutions.

(a) Any person violating any provision of this chapter and the amendments to §§ 27-119 and 27-125, or any regulation made pursuant to this chapter and the amendments to §§ 27-119 and 27-125, shall be fined not more than \$300, or be imprisoned for not more than 90 days. Prosecution for violations of this chapter and the amendments to §§ 27-119 and 27-125 and regulations made pursuant thereto shall be brought in the name of the District of Columbia.

(b) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this chapter shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (Sept. 10, 1962, 76 Stat. 535, Pub. L. 87-656, § 5; 1973 Ed., § 2-254; Oct. 5, 1985, D.C. Law 6-42, § 430, 32 DCR 4450.)

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The

Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

## § 2-1605. Chief Medical Examiner.

(a) The Mayor is authorized to appoint physicians to perform the functions of the Chief Medical Examiner, in accordance with Chapter 23 of Title 11.

(b) The Chief Medical Examiner of the District of Columbia may allow tissue to be removed from any dead human body in his or her custody or under his or her jurisdiction; provided, that the decedent had executed a gift of such tissue or that a person who is authorized to donate tissue from the body has authorized tissue removal pursuant to Chapter 15 of Title 2. Such tissue removal shall not interfere with other functions of the Chief Medical Examiner's Office.



(c)(1) The Chief Medical Examiner of the District of Columbia may, upon request of a nonprofit organ or tissue recovery organization authorized by the Mayor to make a request, authorize the recovery of the corneal tissue, and the aortic and pulmonary heart valves from any dead human body that is sent to the Medical Examiner's Office for autopsy, provided that:

(A) The decedent may provide a suitable cornea, aortic heart valve, and or pulmonary heart valve for transplantation or medical research;

(B) There is no known objection by the next-of-kin;

(C) An autopsy on the body of the decedent is being performed by the Medical Examiner's Office; and

(D) The removed tissue will not be needed for subsequent investigation, evidence, or an autopsy, or alter the postmortem facial appearance of the decedent.

(2) The order of priority for a decedent's "next-of-kin" shall be the following:

(A) Spouse;

(B) Adult son or daughter;

(C) Either parent;

(D) Adult brother or sister;

(E) Guardian at the time of death; or

(F) Any other person authorized or under obligation to dispose of the decedent's body.

(3) The agency performing the recovery and processing of the heart valves must be a nonprofit American Association of Tissue Banks accredited member. The agency performing the recovery and processing of the corneal tissue must be a nonprofit Eye Bank Association of America accredited member. Any agency recovering or processing tissue removed under this subsection shall comply with the laws and regulations of the District of Columbia and federal governments relating to human tissue.

(4) The recovering agency shall reimburse the District of Columbia for any costs incurred by the Medical Examiner's Office in the recovery process.

(5) It is the recovering agency's responsibility to ensure that all heart valves and corneal tissue recovered from the Medical Examiner's Office under this subsection will be made available first to residents of the District of Columbia.

(6) Any person who acts in good faith, in accordance with the terms of this subsection, is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for their action. (Sept. 10, 1962, 76 Stat. 536, Pub. L. 87-656, § 9; May 26, 1970, 84 Stat. 270, Pub. L. 91-268, § 9(d); July 29, 1970, 84 Stat. 579, Pub. L. 91-358, title I, § 160(b); 1973 Ed., § 2-258; Mar. 5, 1981, D.C. Law 3-145, § 2, 27 DCR 4663; Sept. 29, 1992, D.C. Law 9-157, § 3, 39 DCR 5686.)

**Section references.** — This section is referred to in § 11-2312.

**Effect of amendments.** — D.C. Law 9-157 added (c).

**Legislative history of Law 3-145.** — Law

3-145, the "District of Columbia Tissue Bank Act Amendment of 1980," was introduced in Council and assigned Bill No. 3-312. The Bill was adopted on first and second readings on September 16, 1980, and September 30, 1980,

respectively. Signed by the Mayor on October 14, 1980, it was assigned Act No. 3-266 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-157.** — Law 9-157, the "Tissue Transplantation Distribution Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-278, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 2, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 21, 1992, it was assigned Act No. 9-251 and transmitted to both Houses of Congress for its review. D.C. Law 9-157 became effective on September 29, 1992.

**Mayor authorized to issue rules.** — Section 4 of D.C. Law 9-157 provided that the Mayor shall issue rules to implement the provisions of the act.

**Delegation of Authority Pursuant to D.C. Law 9-157, the "Tissue Transplantation Distribution Amendment Act of 1992".** — See Mayor's Order 93-61, May 12, 1993.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-1606. Exemptions from chapter.

Nothing in this chapter and §§ 27-119 and 27-125 shall be construed:

(1) To prohibit funeral directors, licensed pursuant to §§ 2-2805 and 2-2806, from discharging their duties; or

(2) To prohibit or affect in any way the authority, duties, rights, or obligations vested, imposed, or granted by Chapter 14 of this title. (Sept. 10, 1962, 76 Stat. 537, Pub. L. 87-656, § 12; 1973 Ed., § 2-259; Feb. 24, 1987, D.C. Law 6-192, § 23, 33 DCR 7836.)

**Cross references.** — As to licenses for funeral directors, see § 2-2805.

**Legislative history of Law 6-192.** — Law 6-192, the "Technical Amendments Act of 1986," was introduced in Council and assigned Bill No. 6-544, which was referred to the Com-

mittee of the Whole. The Bill was adopted on first and second readings on November 5, 1986, and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

## § 2-1607. Construction.

Nothing in this chapter and §§ 27-119 and 27-125 shall be construed so as to affect the authority vested in the Mayor by Reorganization Plan No. 5 of 1952. The performance of any function vested by this chapter and §§ 27-119 and 27-125 in the Mayor or in any office or agency under the jurisdiction and control of said Mayor may be delegated by said Mayor in accordance with § 3 of such Plan. (Sept. 10, 1962, 76 Stat. 537, Pub. L. 87-656, § 13; 1973 Ed., § 2-260.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts

Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reor-

ganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of

government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-1608. Authority of licensed blood banks to transfer blood components within District.

(a) Any blood bank in the District of Columbia, holding an unsuspended and unrevoked license issued under § 262 of Title 42, United States Code, may transfer, for use in the District of Columbia, platelets and other components of blood in general use in the states (as determined by the Mayor of the District of Columbia), produced in such blood bank, to physicians licensed under Chapter 33 of this title, to District of Columbia hospitals, and to licensed private hospitals and other medical facilities in the District of Columbia.

(b) Section 262 of Title 42, United States Code, shall not apply with respect to any transfer made in accordance with subsection (a) of this section. (May 18, 1970, 84 Stat. 218, Pub. L. 91-256; 1973 Ed., § 2-261; May 10, 1989, D.C. Law 7-231, § 9, 36 DCR 492.)

**Legislative history of Law 7-231.** — See note to § 2-1603.

**Change in government.** — This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia

Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.



CHAPTER 17. NURSES, THERAPISTS, AND PSYCHOLOGISTS.

*Subchapter I. Registered Nurses.*

Sec.

2-1701.1 to 2-1701.10. [Repealed].

*Subchapter II. Practical Nurses.*

2-1702.1 to 2-1702.19. [Repealed].

*Subchapter III. Physical Therapists.*

2-1703.1 to 2-1703.21. [Repealed].

*Subchapter IV. Psychologists.*

Sec.

2-1704.1 to 2-1704.18. [Repealed].

*Subchapter V. Occupational Therapists.*

2-1705.1 to 2-1705.18. [Repealed].

*Subchapter I. Registered Nurses.*

§§ 2-1701.1 to 2-1701.10. Registration required generally; Nurses' Examining Board; application for examination and registration; fee; qualifications; registration of training schools; registration without examination; annual registration of nurses and schools; fees; failure to reregister; restoration; appeal from denial of registration or reregistration; filing of false document or evidence; expenses to be paid from fees; salary of Executive Secretary; penalties; gratuitous or for-hire nursing.

Repealed. Mar. 25, 1986, D.C. Law 6-99, § 1104(b), 33 DCR 729.

**Cross references.** — As to regulation of health occupations, see Chapter 33 of this title.

**Legislative history of Law 6-99.** — Law 6-99, the "District of Columbia Health Occupations Revision Act of 1985," was introduced in Council and assigned Bill No. 6-317, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on

first and second readings on December 17, 1985, and January 14, 1986, respectively. Signed by the Mayor on January 28, 1986, it was assigned Act No. 6-127 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — Section 2-1701.9 had been amended by § 467 of D.C. Law 6-42.

*Subchapter II. Practical Nurses.*

§§ 2-1702.1 to 2-1702.19. Definitions; exemption of federal employees; gratuitous or for-hire nursing; use of title or abbreviation; Mayor authorized to delegate functions; Practical Nurses' Examining Board; rules and regulations; curricula and standards for schools; accreditation; affiliation of programs; studies and investigations; subpoenas; qualifications of applicant; examina-

tions; issuance of license without examination; fee; closed applications; reopening; expiration of license; annual renewal; reinstatement of lapsed licensees; nonpracticing list; accreditation of schools of practical nursing; fees; denial, revocation, or suspension of license or certificate of renewal; review of decisions and orders of Mayor; unlawful acts; penalty for violation of § 2-1702.4 or 2-1702.14; prosecution for violation of § 2-1702.4 or 2-1702.14; severability; appropriations; effective date.

Repealed. Mar. 25, 1986, D.C. Law 6-99, § 1104(f), 33 DCR 729.

**Cross references.** — As to regulation of health occupations, see Chapter 33 of this title.

**Legislative history of Law 6-99.** — See note to § 2-1701.1.

**Editor's notes.** — Section 2-1702.15 had been amended by § 434(a) of D.C. Law 6-42.

Section 2-1702.16 had been amended by § 434(b) of D.C. Law 6-42.

### *Subchapter III. Physical Therapists.*

§§ 2-1703.1 to 2-1703.21. Definitions; exemption of federal employees; registration required; use of title or abbreviation; exceptions; Mayor authorized to delegate functions; Physical Therapists' Examining Board; rules and regulations; register of physical therapists and approved schools; studies and investigations; subpoenas; registration of qualified applicants; issuance of certificates; examination; qualifications of applicants; reciprocity; annual renewal of registration; reinstatement of lapsed registrants; nonpracticing list; fee; denial, revocation, and suspension of registration or certificate of registration; review of decisions or orders of Mayor; unlawful acts; practice of registered physical therapists limited; violation of § 2-1703.3, 2-1703.13, or 2-1703.14; prosecution for violation of § 2-1703.3, 2-1703.13, or 2-1703.14; fees; public hearing required; disposition of moneys collected; severability; appropriations; construction; effective date.

Repealed. Mar. 25, 1986, D.C. Law 6-99, § 1104(g), 33 DCR 729.

**Cross references.** — As to regulation of health occupations, see Chapter 33 of this title.

**Legislative history of Law 6-99.** — See note to § 2-1701.1.

**Editor's notes.** — Section 2-1703.15 had been amended by § 432(a) of D.C. Law 6-42.

Section 2-1703.16 had been amended by § 432(b) of D.C. Law 6-42.

#### *Subchapter IV. Psychologists.*

§§ 2-1704.1 to 2-1704.18. Declaration; definitions; problems beyond psychologist's competence; medical problems; restrictions on practice; practice without license or certificate prohibited; exemptions; duties of Mayor; Board of Psychologist Examiners; qualifications of applicants; examination; fee; license without examination; reciprocity; regulations; fees; annual renewal of license or certificate; lapse; reinstatement; inactive status; reactivation; refusal, revocation, or suspension of license or certificate; procedure for suspension or revocation of license or certificate; penalty for unauthorized practice; enjoining unauthorized practice; Mayor to enforce subchapter; psychologist-patient privilege; appropriations; severability.

Repealed. Mar. 25, 1986, D.C. Law 6-99, § 1104(h), 33 DCR 729.

**Cross references.** — As to regulation of health occupations, see Chapter 33 of this title.

**Legislative history of Law 6-99.** — See note to § 2-1701.1.

**Editor's notes.** — Section 2-1704.13 had been amended by § 426 of D.C. Law 6-42.

#### *Subchapter V. Occupational Therapists.*

§§ 2-1705.1 to 2-1705.18. Purpose; definitions; license required; exceptions; Board of Occupational Therapy Practice; requirements for licensure; examination; waiver of requirements for licensure; issuance of license; use of title or abbreviation; limited permit; denial or refusal to renew license; suspension or revocation; probationary conditions; reinstatement; renewal of license; registration of nonpracticing therapists; fees; unlawful acts; penalties; severability.

Repealed. Mar. 25, 1986, D.C. Law 6-99, § 1104(i), 33 DCR 729.



**Cross references.** — As to regulation of health occupations, see Chapter 33 of this title.

**Legislative history of Law 6-99.** — See note to § 2-1701.1.

**Editor's notes.** — Section 2-1705.17 had been amended by § 415 of D.C. Law 6-42.

## CHAPTER 18. OPTOMETRISTS.

Sec.

2-1801 to 2-1822. [Repealed].

§§ 2-1801 to 2-1822. Practice of "optometry" defined; unlawful acts; Board of Optometry; Secretary-Treasurer required to give bond; compensation; expenses of Board; official seal; records; reports; examination to practice optometry required; limited examination; standard examination; changes in educational standards authorized; application for license; number of examinations required; reexamination; issuance of license; display; fees; revocation of license; reinstatement; temporary retirement; adoption of seal and license; Board to have office in District; refusal to grant license; cancellation, revocation, or suspension; grounds; hearing on charges; reciprocity; use of title, word, or abbreviation by licensee restricted; exemptions from chapter; singular number to include plural; masculine gender to include feminine; severability.

Repealed. Mar. 25, 1986, D.C. Law 6-99, § 1104(d), 33 DCR 729.

**Cross references.** — As to regulation of health occupations, see Chapter 33 of this title.

**Legislative history of Law 6-99.** — Law 6-99, the "District of Columbia Health Occupations Revision Act of 1985," was introduced in Council and assigned Bill No. 6-317, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on

first and second readings on December 17, 1985, and January 14, 1986, respectively. Signed by the Mayor on January 28, 1986, it was assigned Act No. 6-127 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — Section 2-1802 had been amended by § 461 of D.C. Law 6-42.

CHAPTER 19. PAWNBROKERS.

Sec.

2-1901. Definitions.

2-1902. License required; display of sign or emblem.

2-1903. Appointment of Mayor as attorney; application for license; cash capital; application fee.

2-1904. Bond.

2-1905. License — Issuance; fee; contents; display; transferability; change of place or business.

2-1906. Same — Revocation; suspension; renewal; renewal fee; procedure; surrender.

2-1907. Same — Enforcement of chapter; annual report; records of licensee; appeal of action, decision, or ruling of Mayor.

2-1908. Advertising; statement of rates.

2-1909. Maximum rate of interest permitted; repayment of loan.

Sec.

2-1910. Excessive consideration prohibited; instruments for loans made in violation of chapter invalid; loans made outside of District.

2-1911. Book containing loan transactions required; inspection of books; police to be admitted to premises; daily transcript.

2-1912. Borrower to receive memorandum of loan transaction.

2-1913. Sale of pawn or pledge — Required time of possession.

2-1914. Same — Notice.

2-1915. Same — Disposition of surplus moneys.

2-1916. Penalties for violation of chapter; loan declared void; pledge returned.

2-1917. Rules and regulations.

2-1918. Exceptions to application of chapter.

2-1919. Severability.

§ 2-1901. Definitions.

As used in this chapter:

(1) The term "person" means an individual, firm, voluntary association, joint-stock company, incorporated society, or corporation.

(2) The term "District" means the District of Columbia.

(3) The term "Mayor" means the Mayor of the District or the agent or agents designated by him to perform any function vested in the Mayor by this chapter; provided, that for the purposes of subsection (e) of § 2-1907 no such agent shall, by way of appeal, review his own action, decision, or ruling.

(4) The term "pawnbroker" means any person who shall in any manner lend or advance money or other things for profit on pledge and possession of personal property or other valuable thing, other than securities or written or printed evidences of indebtedness or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price, and shall include all pawnbrokers referred to in §§ 4-147, 4-148, and 4-149. (Aug. 6, 1956, 70 Stat. 1036, ch. 970, § 1; 1973 Ed., § 2-2001.)

**Cross references.** — As to applicability of chapter to secured transactions, see § 28:9-203.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.



## § 2-1902. License required; display of sign or emblem.

(a) No person shall engage in business as a pawnbroker except as authorized in this chapter and without first obtaining a license from the Mayor as hereinafter provided.

(b) No person, other than a licensee under this chapter, shall display any sign or other device in or about any business premises, or in any advertising matter, which in any manner resembles the emblem or sign commonly used by pawnbrokers nor display any sign which is calculated to deceive, nor use the word "pawnbroker" in or about any business premises or in any advertising matter, nor shall any such person hold himself out to the public to be a pawnbroker either by advertising, soliciting, signs, or otherwise. (Aug. 6, 1956, 70 Stat. 1036, ch. 970, § 2; 1973 Ed., § 2-2002.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Government Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat.

818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**Cited in** *Kronstadt v. District of Columbia*, App. D.C., 155 A.2d 76 (1959).

## § 2-1903. Appointment of Mayor as attorney; application for license; cash capital; application fee.

(a) No license shall be issued to any person unless and until such person shall, in writing and in the form prescribed by the Mayor, appoint the Mayor as his true and lawful attorney upon whom all judicial and other process or legal notice directed to such person may be served. A copy of any such process or notice so served upon the Mayor shall be forthwith sent by registered mail by the plaintiff or his attorney to the defendant at his residence or his place of business.

(b) Each application for a license under this chapter shall be in writing, under oath or affirmation, to the Mayor in such form as he may prescribe. Such application shall contain:

(1) In the case of an individual, his name and the address of his residence and place of business;

(2) In the case of a firm or voluntary association, the name and address of every member thereof and the address of the place where such business is to be conducted;

(3) In the case of a joint-stock company, incorporated society, or corporation, the names and addresses of the officers and directors thereof and the address of the place where such business is to be conducted; and

(4) Such additional information as the Council of the District of Columbia may prescribe.

(c) Each applicant shall prove to the satisfaction of the Mayor that he has available, for use in the business of making loans authorized by this chapter at the location specified in his application, cash capital of at least \$20,000.

(d) Upon the filing of any such application the applicant shall pay to the Mayor the sum of \$50 as a fee for investigating the application, which sum shall be retained by the District whether such application is approved or disapproved. (Aug. 6, 1956, 70 Stat. 1036, ch. 970, § 3; 1973 Ed., § 2-2003.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(70) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-1904. Bond.

(a) Each applicant shall file with his application a bond running to the District in the sum of \$5,000 with 2 or more sufficient sureties, whose liability as such securities shall not exceed the said sum in the aggregate; except that the execution of any such bond by a fidelity or surety company authorized by the laws of the United States to transact business in the District shall be equivalent to the execution thereof by 2 sureties, but such company, if excepted to, shall justify in the manner required by law of fidelity and surety companies. Such bond shall be approved by the Mayor and conditioned upon the compliance by the applicant with all the provisions of this title and all rules and regulations lawfully made pursuant thereto. Any person injured by the noncompliance with any such provision, rule, or regulation by any licensee under this chapter may maintain a suit in his own name in any court of competent jurisdiction and recover on the bond such damages as shall be adjudged by such court together with costs of such suit. Recovery upon any such bond shall not preclude recovery against such licensee for any liability in excess of the amount recovered upon the bond, and such recovery shall not be held to extinguish any remedy under other law.

(b) The bond or bonds which the licensee is required to file hereunder shall be renewed and refiled annually at the time of making payment of the annual license fee. If the Mayor shall find that any such bond has for any reason become insecure or exhausted, an additional bond in the sum of not more than \$5,000 shall be filed by the licensee within 10 days after written demand therefor by the Mayor. (Aug. 6, 1956, 70 Stat. 1037, ch. 970, § 4; 1973 Ed., § 2-2004.)



**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and

Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## **§ 2-1905. License — Issuance; fee; contents; display; transferability; change of place or business.**

(a) If the Mayor approves the bond filed by the applicant and the form of the application, and finds after investigation: (1) That the financial responsibility, experience, character, and general fitness of such applicant, and of the members thereof if the applicant is a firm or voluntary association, and of the officers and directors thereof if the applicant is a joint-stock company, incorporated society, or corporation are such as to command the confidence of the community and to warrant the belief that the business of the applicant will be operated honestly, fairly, and efficiently in accordance with the purposes of this chapter; (2) that permitting such applicant to engage in such business will promote the convenience and advantage of the community; and (3) that the applicant has available for use in such business at the location specified in the application cash capital of at least \$20,000, the Mayor shall, upon payment by the applicant of a license fee of \$800, issue to the applicant a license to make such loans in accordance with the provisions of this chapter at the location specified in such application; except that if any such license is issued after the 30th day of April of any year the fee for such license shall be \$250. If the Mayor does not so find after investigation he shall notify the applicant thereof and return the bond filed with the application. Within 60 days from the date of filing the application for license, accompanied by the investigation fee and bond required by this chapter, the Mayor shall either issue or refuse to issue such license, but no applicant shall be denied a license until after a due hearing by the Mayor, at which the applicant shall have a reasonable opportunity to be heard and to produce evidence in support of his application. If the application be denied, the Mayor shall within 20 days thereafter prepare a written decision and findings with respect thereto containing a summary of the evidence and the reasons supporting the denial and forthwith serve upon the applicant a copy thereof.

(b) Each license issued under this chapter shall state fully the name of the licensee and the place at which the business is to be conducted under such license. Such license shall be kept conspicuously posted in such place of business. No such license shall be transferable or assignable. Not more than 1 place of business shall be maintained under the same license, but the Mayor may issue more than 1 license to the same licensee upon compliance for each such license with all the provisions of this title applicable to the original



issuance of licenses. Whenever a licensee shall desire to change his place of business to another location within the District he shall immediately give written notice thereof to the Mayor. Upon receipt of such notice the Mayor shall attach to the license a statement of the change of location and the date thereof, which shall be authority for the operation of such business under such license at the new location.

(c) No licensee shall transact such business or make any loan provided for by this chapter under any other name or at any other place of business than that named in the license. (Aug. 6, 1956, 70 Stat. 1037, ch. 970, § 5; 1973 Ed., § 2-2005; Sept. 14, 1976, D.C. Law 1-82, title I, § 101(a), 23 DCR 2461.)

**Legislative history of Law 1-82.** — Law 1-82, the "License Fees and Charges Act of 1976," was introduced in Council and assigned Bill No. 1-237, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 23, 1976, and April 6, 1976, respectively. Signed by the Mayor on June 22, 1976, it was assigned Act No. 1-135 and transmitted to both Houses of Congress for its review.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401

of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the Functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-1906. Same — Revocation; suspension; renewal; renewal fee; procedure; surrender.

(a) Each license shall remain in full force and effect until the 1st day of November following the date of issuance unless sooner surrendered by the licensee or suspended or revoked as hereinafter provided. Application for license for the following year may be made by any licensee within 20 days prior to the 1st day of November. If the Mayor is satisfied that no fact or condition then exists which clearly would warrant the Mayor in refusing to issue a license on an original application the Mayor is authorized to issue license for the year commencing on the 1st day of November following the date of such application, upon payment of license fee of \$550.

(b) The Mayor shall, upon 10 days notice to the licensee stating that he contemplates the revocation or suspension of his license, and, in general, the grounds therefor, revoke or suspend such license, after reasonable opportunity has been afforded to the licensee to be heard, if the Mayor finds: (1) That the licensee has failed to maintain in effect the bond or bonds required under this chapter; or (2) that the licensee has either, knowingly or without the exercise of due care to prevent the same, violated any provision of this chapter or has failed to comply with any rule or regulation lawfully made pursuant thereto; or (3) that any fact or condition then exists which clearly would warrant the Mayor in refusing to issue a license on an original application. If the license

be revoked or suspended the Mayor shall, within 20 days thereafter, prepare a written decision and findings with respect thereto containing a summary of the evidence and the reasons supporting the revocation or suspension and forthwith serve upon the licensee a copy thereof.

(c) The Mayor may revoke or suspend only the particular license with respect to which there are grounds for revocation or suspension, but if the Mayor finds that such grounds for revocation or suspension apply or extend to more than 1 license issued to any person under this chapter, he shall revoke or suspend all the licenses affected thereby.

(d) The licensee may at any time surrender any license issued to him under this chapter upon filing written notice to that effect with the Mayor.

(e) No revocation, suspension, or surrender of any such license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower, or any bond given by such licensee. (Aug. 6, 1956, 70 Stat. 1038, ch. 970, § 6; 1973 Ed., § 2-2006; Sept. 14, 1976, D.C. Law 1-82, title I, § 101(b), 23 DCR 2461.)

**Cross references.** — As to administrative procedure, see Chapter 15 of Title 1. As to judicial review, see § 11-722.

**Legislative history of Law 1-82.** — See note to § 2-1905.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all

of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## **§ 2-1907. Same — Enforcement of chapter; annual report; records of licensee; appeal of action, decision, or ruling of Mayor.**

(a) The provisions of this chapter shall be enforced by the Mayor, and the Council of the District of Columbia is authorized to make such rules and regulations in addition hereto and not inconsistent herewith, as may be necessary for the enforcement of this chapter. The Mayor shall make such examination and investigations of the affairs, business, office, and records of every licensee, and such further examinations or investigations as he shall deem necessary for the purpose of discovering violations of this chapter or of securing information necessary for its proper enforcement. For the purpose of making such examinations or investigations, the Mayor and his duly designated representatives shall have authority to require by subpoena the production of books, papers, and records and the attendance, and examination under oath, of all persons whomsoever whose testimony they may require relative to the loans or business of any such licensee, and shall have free access to the accounts, papers, records, files, safes, vaults, offices, and places of business used



in connection with any business conducted under any license issued in accordance with this chapter. In the event of contumacy or refusal to obey any such subpoena or requirement under this section, the Mayor may make application to the Superior Court of the District of Columbia for an order requiring obedience thereto. Thereupon the Court, with or without notice and hearing, as it in its discretion may decide, may make such order as is proper and may punish as a contempt any failure to comply with such order.

(b) Each licensee shall annually, on or before the 15th day of March, file with the Mayor a report giving such information as the Mayor may require, relevant to the business and operations during the preceding calendar year of each licensed place of business conducted by such licensee in the District. Such report shall be made under oath and in the form prescribed by the Mayor. The Mayor shall make and publish annually an analysis and recapitulation of such reports.

(c) Each licensee shall keep and use in his business and shall preserve, for at least 3 years after making the final entry on any loan recorded therein, such books, accounts, records, or card systems as will enable the Mayor to determine whether such licensee is complying with the provisions of this chapter and with the rules and regulations made pursuant thereto.

(d) The Mayor is authorized to appoint such assistants, clerks, or other employees as may be required for the purpose of carrying out the provisions of this chapter.

(e) Any person aggrieved by any action, decision, or ruling of the Mayor under this chapter may, within 20 days thereafter, or within 20 days after the service upon such person of any written decision and findings required by this chapter, appeal to the Mayor for a review thereof. Upon any such review, the Mayor may affirm, set aside, or modify such action, decision, or ruling. In any such case the Mayor shall, within 10 days thereafter, prepare a written decision and findings with respect thereto, containing a summary of the evidence and the reasons supporting the affirmance, setting aside, or modification, and forthwith serve upon the aggrieved person a copy thereof. (Aug. 6, 1956, 70 Stat. 1039, ch. 970, § 7; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, §§ 155(a), 164(m); 1973 Ed., § 2-2007.)

**Section references.** — This section is referred to in § 2-1901.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(71) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the

Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.



## § 2-1908. Advertising; statement of rates.

(a) No licensee or other person, firm, voluntary association, joint-stock company, incorporated society, or corporation shall advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner whatsoever, any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action in the amount or of the value of \$1,000 or less, which is false, misleading, or deceptive, or, in the case of a licensee, which refers to the supervision of such business by the District of Columbia, or any department or official thereof. The Mayor may order any licensee to desist from any conduct which he shall find to be a violation of the foregoing provisions.

(b) The Mayor may require that rates of charge, if stated by a licensee, be stated fully and clearly in such manner as he may deem necessary to prevent misunderstanding thereof by prospective borrowers. (Aug. 6, 1956, 70 Stat. 1040, ch. 970, § 8; 1973 Ed., § 2-2008.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and

Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-1909. Maximum rate of interest permitted; repayment of loan.

(a) The Mayor shall investigate from time to time the economic conditions and other factors relating to and affecting the business of making pawnbroker loans under this chapter, and shall ascertain all pertinent facts necessary to determine what maximum rate of interest should be permitted. Upon the basis of such ascertained facts, the Council of the District of Columbia shall determine and fix by regulation or order a maximum rate of interest in connection with such loans which will induce efficiently managed commercial capital to be invested in such business in sufficient amounts to make available adequate credit facilities to individuals seeking such loans at reasonable rates of interest, and which will afford those engaged in such business a fair and reasonable return upon the assets. The Council may from time to time, upon the basis of changed conditions or facts, redetermine and refix any such maximum rate of interest, but, before determining or redetermining any such maximum rate, the Council shall give reasonable notice of its intention to consider doing so to all licensees and a reasonable opportunity to be heard and introduce evidence with respect thereto, and such notice shall also be pub-

lished once each week for 2 consecutive weeks in one or more of the daily newspapers published in the District. Any such changed maximum rate of interest shall not affect preexisting loan contracts lawfully entered into between any licensee and any borrower. Until such time as a different rate is fixed by the Council in accordance with the authorization contained in this section, every licensed pawnbroker may contract for and receive on any loan of money, not exceeding 2 per centum per month, or fraction thereof, upon any loan not exceeding the sum of \$200, or more than 1 per centum per month or fraction thereof, upon any loan exceeding \$200 and not exceeding \$1,000, and 8 per centum per annum on any loan in excess of \$1,000, under a penalty of \$100 for each such offense: Provided, that pawnbrokers may ask, demand, and receive a minimum charge in lieu of interest of \$.50.

(b) The borrower may pay all or any part of any loan made pursuant to this chapter at any time before the date of maturity thereof, but any such payment may first be applied by the licensee to all interest unpaid up to the date of such payment. (Aug. 6, 1956, 70 Stat. 1040, ch. 970, § 9; 1973 Ed., § 2-2009.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(72) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-1910. Excessive consideration prohibited; instruments for loans made in violation of chapter invalid; loans made outside of District.

(a) No person, except as authorized by this chapter, shall directly or indirectly, by any device, subterfuge, or pretense, whatsoever, ask, demand, charge, contract for, or receive, or participate, as agent, broker, procurer, intermediary, or volunteer, or in any other capacity, in asking, demanding, charging, contracting for, or receiving any interest, discount, fee, charge, or other consideration which in the aggregate is greater than the interest which is permitted by §§ 28-3301 to 28-3303, upon any loan or application for loan in the amount or of the value of \$1,000, or less, whether or not such loan is made.

(b) No person engaged in the business regulated by this chapter shall pay, directly or indirectly, to any person, any money, service, or thing of value for the doing of any of the acts prohibited in subsection (a) of this section; provided, that this subsection shall apply only to acts done or performed with reference to loan transactions or applications for loans in sums of \$1,000 or less, or in inducing or seeking to induce any person to borrow in sums of \$1,000 or less.



(c) No instrument evidencing a loan made within the District in violation of the provisions of this chapter shall be valid or enforceable in the District by the lender or by any other holder thereof who acquired the same with actual knowledge that said loan was made in violation of the provisions of this chapter or with knowledge of such facts that his action in taking such instrument amounted to bad faith.

(d) Any loan made by any person not licensed under this chapter for which there has been charged, contracted for, or received a greater rate of interest, discount, or consideration than the interest which is permitted by §§ 28-3301 to 28-3303, and any loan made by a licensee under this chapter for which there has been charged, contracted for, or received a greater rate of interest, discount, or consideration than licensees are permitted to charge, contract for, or receive under this chapter is hereby declared to be against the public policy of the District. No such loan made outside the District shall be enforced in the District and every person in anywise participating therein in the District shall be subject to the provisions of this chapter, except that the provisions of this subsection shall not apply to a loan legally made in any state under and in accordance with the provisions of a duly enacted pawnbroker law. (Aug. 6, 1956, 70 Stat. 1041, ch. 970, § 10; 1973 Ed., § 2-2010.)

**Police regulations amended.** — Section 3 of D.C. Law 5-137 amended § 2 of Commissioners' Order No. 57-1638 (Article 41 of the Police Regulations of the District of Columbia)

concerning pawnbrokers' maximum rates of interest, monthly charges instead of interest, and computation of interest and of the 6-month period after which a pledge may be sold.

## **§ 2-1911. Book containing loan transactions required; inspection of books; police to be admitted to premises; daily transcript.**

(a) Every pawnbroker shall keep a book in which shall be fairly written, at the time of each loan, an accurate account and description of the goods, article, or thing pawned or pledged, the amount of money loaned thereon, the time of pledging the same, the rate of interest to be paid on such loan, and the name and residence of the person pawning or pledging the said goods, article, or thing, together with a particular description of such person, including complexion, color of eyes and hair, and his or her height and general appearances.

(b) The said book shall at all reasonable times be open to the inspection of the Mayor. It shall be the duty of every pawnbroker, and of every person in his employ, to admit to his premises during business hours any member of the Metropolitan Police force of the District of Columbia as aforesaid to examine any pledge or pawnbook or other record on the premises, as well as the articles pledged, purchased, or received, and to search for and take possession of any article known by him to be missing or known or believed by him to have been stolen, without the formality of the writ of search warrant or any other process, which search or seizure is hereby authorized.

(c) Except as to any judicial or other official of the District, having a right thereto in his official capacity, it shall be unlawful for any officer or employee of the District to divulge or make known in any manner the contents of such book.



(d) Every pawnbroker shall, every day, except Sunday, before the hour of 11:00 a.m., deliver to the Chief of Police, or his representative, on forms to be prescribed by the Mayor of the District of Columbia, a legible and correct transcript from the book or books provided for in subsection (a) of this section, showing an accurate and complete description of every article or thing received by him, in pawn or pledge, and giving all numbers, marks, monograms, trademarks, manufacturers' names, and other marks of identification appearing on the same, on the business day next preceding, together with the numbers of the pawn ticket issued therefor, the amount of the loan thereon, and the name, residence, and physical description of the person pawning or pledging the said goods, article or thing. (Aug. 6, 1956, 70 Stat. 1041, ch. 970, § 11; 1973 Ed., § 2-2011.)

**Section references.** — This section is referred to in § 2-1912.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-1912. Borrower to receive memorandum of loan transaction.

Every pawnbroker shall, at the time of each loan, deliver to the person pawning or pledging any goods, article, or thing a memorandum or note, signed by him, containing the substance of the entry required to be made in his or her book by § 2-1911, excepting as to the description of the person and no charge shall be made or received by any pawnbroker for any such entry, memorandum, or note. (Aug. 6, 1956, 70 Stat. 1042, ch. 970, § 12; 1973 Ed., § 2-2012.)

## § 2-1913. Sale of pawn or pledge — Required time of possession.

No pawnbroker shall sell a pawn or a pledge until the pawn or the pledge has remained 6 months in the pawnbroker's possession, unless by consent in writing by the pawnor. (Aug. 6, 1956, 70 Stat. 1042, ch. 970, § 13; 1973 Ed., § 2-2013; Mar. 13, 1985, D.C. Law 5-137, § 2(a), 31 DCR 5743.)

**Legislative history of Law 5-137.** — Law 5-137, the "Pawnbroker Industry Improvement Act of 1984," was introduced in Council and assigned Bill No. 5-362, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on Sep-

tember 12, 1984, and October 9, 1984, respectively. Signed by the Mayor on October 25, 1984, it was assigned Act No. 5-195 and transmitted to both Houses of Congress for its review.

**§ 2-1914. Same — Notice.**

At least 30 days before selling a pawn or a pledge, the pawnbroker shall send notice of the sale to the pawner by certified mail. Certificates of mailing of the notice shall be part of the pawnbroker business records required by this chapter to be kept. (Aug. 6, 1956, 70 Stat. 1042, ch. 970, § 14; 1973 Ed., § 2-2014; Mar. 13, 1985, D.C. Law 5-137, § 2(b), 31 DCR 5743.)

**Legislative history of Law 5-137.** — See note to § 2-1913.

**§ 2-1915. Same — Disposition of surplus moneys.**

The surplus money from the sale, after deducting the amount of the loan, the interest then due on the loan, and the expenses of the notice and sale, shall be paid over by the pawnbroker to the person who would have been entitled to redeem the pledge had the sale not taken place. (Aug. 6, 1956, 70 Stat. 1042, ch. 970, § 15; 1973 Ed., § 2-2015; Mar. 13, 1985, D.C. Law 5-137, § 2(c), 31 DCR 5743.)

**Legislative history of Law 5-137.** — See note to § 2-1913.

**§ 2-1916. Penalties for violation of chapter; loan declared void; pledge returned.**

(a) Any individual or any member, officer, director, agent, or employee of any firm, voluntary association, joint-stock company, incorporated society, or corporation who shall violate or participate in the violation of any of the provisions of this chapter shall be punished by a fine of not more than \$300 or by imprisonment for not more than 90 days.

(b) Any contract of loan in the making or collection of which any act shall have been done which constitutes a violation of any of the provisions of this chapter shall be void and the lender shall have no right to collect or receive any principal, interest, or charges whatsoever on account thereof. Any person pledging any goods, article, or other thing as security for a loan which is void shall be entitled to the return of such goods, article, or thing without being required to pay any principal, interest, or other charge on account of such void loan.

(c) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this chapter shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (Aug. 6, 1956, 70 Stat. 1042, ch. 970, § 16; 1973 Ed., § 2-2016; Oct. 5, 1985, D.C. Law 6-42, § 439, 32 DCR 4450.)

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1995," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The

Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

## § 2-1917. Rules and regulations.

The Council of the District of Columbia is authorized to make, and the Mayor of the District of Columbia is authorized to enforce, such rules and regulations as the Council deems necessary to carry out the purposes of this chapter. (Aug. 6, 1956, 70 Stat. 1043, ch. 970, § 17; 1973 Ed., § 2-2017.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(73) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-1918. Exceptions to application of chapter.

Nothing in this chapter shall apply to any person, firm, joint-stock company, incorporated society, credit union, or corporation doing business in the District of Columbia under the supervision of the Federal Reserve System, or the Comptroller of the Currency, or the Federal Deposit Insurance Corporation, or the Federal Home Loan Bank Board, or the Federal Savings and Loan Insurance Corporation, or the Department of Health and Human Services or to loans made by them. (Aug. 6, 1956, 70 Stat. 1043, ch. 970, § 18; 1973 Ed., § 2-2018.)

**References in text.** — The Federal Home Loan Bank Board, referred to in this section, was substituted for the Home Loan Bank Board pursuant to the Act of August 11, 1955, 69 Stat. 340, ch. 783, § 109.

The Department of Health and Human Ser-

vices, referred to near the end of this section, was substituted for the Department of Health, Education and Welfare pursuant to the Act of October 17, 1979, 93 Stat. 695, Pub. L. 96-88, § 509.

## § 2-1919. Severability.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances shall not be affected thereby. (Aug. 16, 1956, 70 Stat. 1043, ch. 970, § 20; 1973 Ed., § 2-2019.)



## CHAPTER 20. PHARMACY.

Sec.

- 2-2001. Purposes; scope.
- 2-2002. Definitions.
- 2-2003. General prohibitions.
- 2-2004, 2-2005. [Repealed].
- 2-2006. Registration of pharmacy interns.
- 2-2007. [Repealed].
- 2-2008. Licensing of pharmacies.
- 2-2009. Operation of pharmacy.
- 2-2010. Denial, suspension, or revocation of pharmacy license.
- 2-2011. Pharmacy personnel.
- 2-2012. Bulk sales or transfers.
- 2-2013. Deteriorating drugs; sample drugs; returned drugs.

Sec.

- 2-2014. Labeling of prescriptions.
- 2-2015. Records.
- 2-2016. Inspections.
- 2-2017. Peddling drugs prohibited.
- 2-2017.1. Public place defined.
- 2-2018. Duties of Mayor.
- 2-2019. Fees.
- 2-2020. Penalties; prosecutions; injunction.
- 2-2021. Review.
- 2-2022. Severability.
- 2-2023. Effect of chapter on prior regulations.

### § 2-2001. Purposes; scope.

(a) The purposes of this chapter are:

- (1) To license pharmacies and pharmacists;
- (2) To register pharmacy interns;
- (3) To regulate the practice of pharmacy; and
- (4) To establish a Board of Pharmacy in the District of Columbia in order

to protect the public health and welfare.

(b) This chapter shall not apply to:

- (1) A duly licensed medical practitioner who personally dispenses or administers drugs or poisons as the practitioner deems proper in the treatment of the practitioner's patients;
- (2) The administering of drugs by a registered or licensed nurse under the direction of a medical practitioner to the practitioner's patient or patients;
- (3) Or otherwise interfere with the sale of over-the-counter drugs; or
- (4) Any person who is a wholesaler or manufacturer, or any employee of such person, when engaged in the discharge of his or her official duties.

(c) Nothing in this chapter shall be construed as altering or affecting in any way laws of the District of Columbia or any federal act requiring a written prescription for controlled substances or other dangerous drugs. (Sept. 16, 1980, D.C. Law 3-98, § 2, 27 DCR 3528.)

**Legislative history of Law 3-98.** — Law 3-98, the "District of Columbia Certificate of Need Act of 1980," was introduced in Council and assigned Bill No. 3-129, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on June 17, 1980, and July 1, 1980, respectively. Signed by the Mayor

on July 16, 1980, it was assigned Act No. 3-220 and transmitted to both Houses of Congress for its review.

**Delegation of authority under D.C. Law 3-98, the "D.C. Pharmacist and Pharmacy Regulation Act of 1980".** — See Mayor's Order 91-47, April 8, 1991.

**§ 2-2002. Definitions.**

For purposes of this chapter:

(1) The term "Board" means the District of Columbia Board of Pharmacy established by the District of Columbia Health Occupations Revision Act of 1985.

(2) The term "dispense" means to sell, distribute, leave with, give away, dispose of, prepare or deliver a drug.

(3) The term "drug" means:

(A) Any substance recognized as a drug, medicine, or medicinal chemical in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, or official Veterinary Medicine Compendium or other official drug compendium or any supplement to any of them;

(B) Any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal;

(C) Any chemical substance (other than food) intended to affect the structure or any function of the body of man or other animal; and

(D) Any substance intended for use as a component of any items specified in subparagraph (A), (B), or (C) of this paragraph, but does not include medical devices or their components, parts, or accessories.

(4) The term "labeling" means the process of affixing a label to any drug container, but does not include the labeling by a manufacturer, packer, or distributor of an over-the-counter drug, packaged legend drug, or medical device.

(5) The term "Mayor" means the Mayor of the District of Columbia or the Mayor's designated agent.

(6) The term "medical device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is:

(A) Recognized in the official National Formulary, the official United States Pharmacopoeia, or any supplement thereto;

(B) Intended for use in the diagnosis of disease or any other condition, or in the cure, mitigation, treatment, or prevention of disease in man or other animal; or

(C) Intended to affect the structure or any function of the body of man or other animal, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animal, and which does not depend upon being metabolized for the achievement of any of its principal intended purposes.

(7) The term "medicinal chemicals" means chemicals used in the treatment of illness or disease.

(8) The term "over-the-counter drug" means drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the laws and regulations of the District of Columbia and the federal government.

(9) The term "person" means any individual, partnership, association, corporation, company, joint stock association, or any organized group of persons whether incorporated or not, or any trustee, receiver, or assignee thereof.

(10) The term "pharmacist" means any person who is licensed in the District of Columbia to engage in the practice of pharmacy.

(11) Repealed.

(12) The term "pharmacy intern" means any person who is registered in the District of Columbia to engage in the practice of pharmacy under the direct supervision of a pharmacist.

(13) The term "practice of pharmacy" means the practice defined in § 2-3301.2(11).

(14) The term "practitioner" means a person licensed and permitted by such license (other than a pharmacist) to prescribe, to dispense, or to conduct research with respect to, or to administer, drugs within the course of such person's professional practice or research.

(15) Repealed.

(16) The term "proprietor of a pharmacy" means a person designated as proprietor in an application for a pharmacy license under § 2-2008. The proprietor may be an individual, a corporation, a partnership, or an unincorporated association, and shall at all times own a controlling interest in the pharmacy.

(17) The term "radiopharmaceuticals" means radioactive drugs and chemicals within the classification of legend drugs as defined under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.) or regulations issued by the Mayor pursuant to this chapter. (Sept. 16, 1980, D.C. Law 3-98, § 3, 27 DCR 3528; Mar. 25, 1986, D.C. Law 6-99, § 1102(a), 33 DCR 729.)

**Cross references.** — As to definitions of "distribute", "drug", "manufacture", and "wholesaler", see § 33-1001.

**Section references.** — This section is referred to in § 33-1001.

**Legislative history of Law 3-98.** — See note to § 2-2001.

**Legislative history of Law 6-99.** — Law 6-99, the "District of Columbia Certificate of Need Act of 1980," was introduced in Council and assigned Bill No. 6-317, which was referred to the Committee on Consumer and Reg-

ulatory Affairs. The Bill was adopted on first and second readings on December 17, 1985, and January 14, 1986, respectively. Signed by the Mayor on January 28, 1986, it was assigned Act No. 6-127 and transmitted to both Houses of Congress for its review.

**References in text.** — The "District of Columbia Health Occupations Revision Act of 1985", referred to in paragraph (1), is D.C. Law 6-99.

**Cited in** *Raynor v. Richardson-Merrell, Inc.*, 643 F. Supp. 238 (D.D.C. 1986).

## § 2-2003. General prohibitions.

(a)-(c) Repealed.

(d) It shall be unlawful for any person to operate, maintain, open or establish a pharmacy within the District of Columbia without first having obtained a license or registration from the Mayor.

(e) Repealed.

(f) It shall be unlawful for any establishment or institution, or any part thereof, that does not provide services of the practice of pharmacy, as defined within this chapter, to use or have upon it, or displayed within it, or affixed to or used in connection with it, a sign bearing the word or words "pharmacy," "apothecary," "drugstore," "druggist," or any word or words of similar or like import which would tend to indicate that the practice of pharmacy is being



conducted in the establishment or institution. (Sept. 16, 1980, D.C. Law 3-98, § 4, 27 DCR 3528; Mar. 25, 1986, D.C. Law 6-99, § 1102(b), 33 DCR 729.)

**Cross references.** — As to acts prohibited in regulated health occupations, see subchapter X of Chapter 33 of this title.

**Legislative history of Law 3-98.** — See note to § 2-2001.

**Legislative history of Law 6-99.** — See note to § 2-2002.

**Cited in** Raynor v. Richardson-Merrell, Inc., 643 F. Supp 238 (D.D.C. 1986).

## §§ 2-2004, 2-2005. Board of Pharmacy; licensing of pharmacists.

Repealed. Mar. 25, 1986, D.C. Law 6-99, § 1102(c), 33 DCR 729.

**Cross references.** — As to present provisions concerning Board of Pharmacy, see § 2-3302.8. As to licensing of health professionals, see subchapter V of Chapter 33 of this title.

**Legislative history of Law 6-99.** — See note to § 2-2002.

## § 2-2006. Registration of pharmacy interns.

(a) The Mayor shall register for a period of 1 year as a pharmacy intern any person:

(1) Who has filed an application subscribed under oath or affirmation containing the information the Mayor may require and has paid all required fees; and

(2) Who is currently registered in and attending a duly accredited college or school of pharmacy or who is a graduate of such college or school of pharmacy.

(b) The Mayor may, by regulation, provide for the registration of pharmacy interns who obtain their practical experience outside of the District of Columbia.

(c) Registration as a pharmacy intern may be renewed for successive periods of 1 year if the Mayor is satisfied that the applicant is in good faith and with reasonable diligence working toward his or her pharmaceutical degree or, if he or she has already received his or her degree, has been unable with reasonable diligence to accumulate the number of hours of service required by the Mayor. (Sept. 16, 1980, D.C. Law 3-98, § 7, 27 DCR 3528.)

**Legislative history of Law 3-98.** — See note to § 2-2001.

## § 2-2007. Denial, suspension, or revocation of pharmacist's license or pharmacy intern's registration.

Repealed. Mar. 25, 1986, D.C. Law 6-99, § 1102(c), 33 DCR 729.

**Legislative history of Law 6-99.** — See note to § 2-2002.

## § 2-2008. Licensing of pharmacies.

(a) The application for a pharmacy license shall be made on a form to be prescribed by the Mayor and shall be accompanied by the required fee. The license shall be valid for a period of time to be determined by the Mayor. No license fee shall be required for the operation of a pharmacy by the United States government or by the District of Columbia government.

(b) Application for renewal of a pharmacy license shall be made not later than 30 days before the expiration date of the license to avoid lapse. An additional fee for late filing not exceeding the amount of the renewal fee shall be established by the Mayor.

(c) Each pharmacy license issued shall apply only to the operation of the pharmacy at the location for which it is issued.

(d) A pharmacy license is not transferable.

(e) Whether or not the proprietor of a pharmacy is a pharmacist, the pharmacy license shall be issued in the name of the proprietor.

(f) When a pharmacy changes proprietorship, the license shall become void and shall be promptly surrendered to the Mayor, and a license shall be obtained by the new proprietor whether or not there is any change in the name of the pharmacy. (Sept. 16, 1980, D.C. Law 3-98, § 9, 27 DCR 3528.)

**Section references.** — This section is referred to in § 2-2002.

**Legislative history of Law 3-98.** — See note to § 2-2001.

## § 2-2009. Operation of pharmacy.

(a) A pharmacy shall be operated only by a licensed pharmacist. During all times when the pharmacy is open for business a pharmacist shall be on duty. The pharmacist on duty shall post his or her license in a conspicuous place during the time he or she is on duty. The hours that the pharmacy is open for business shall be conspicuously displayed on the outside of the pharmacy.

(b) The pharmacist on duty shall control all professional aspects of the practice of pharmacy; any usurpation, in reference or impairment of the exercise of professional judgment of the pharmacist on duty by a nonpharmacist proprietor or personnel shall be deemed the practice of pharmacy and constitute a violation of this chapter.

(c)(1) If only part of an establishment or institution is used as the pharmacy and if the pharmacy is not open to the public at the times when the rest of the establishment is open to the public, the pharmacy shall be securely enclosed so as to prevent unauthorized access to pharmacy areas and to prevent the diversion of drugs stored in pharmacy areas.

(2) The pharmacy and any storage areas for prescription drugs outside of the pharmacy shall be substantially constructed.

(3) All doors shall be capable of being securely locked, and access shall be restricted to pharmacists, the proprietor of the pharmacy, or persons authorized by a pharmacist with the consent of the proprietor.

(4) The key or keys to areas are to be under the control or in the possession of the pharmacist on duty or the proprietor of the pharmacy.

(d) Burglaries and damage to the pharmacy or its contents by fire, flood, or other causes shall be reported immediately to the Mayor. Neither drugs nor other merchandise shall be dispensed, sold, held for sale, or given away in any pharmacy damaged by fire, flood, or other causes until the Mayor has determined that the merchandise is not adulterated or otherwise unfit for sale, use, or consumption. Damaged premises shall be inspected by the Mayor to determine their continued suitability for pharmacy operations. (Sept. 16, 1980, D.C. Law 3-98, § 10, 27 DCR 3528.)

**Legislative history of Law 3-98.** — See note to § 2-2001.

### **§ 2-2010. Denial, suspension, or revocation of pharmacy license.**

(a) The Mayor may refuse the issuance or renewal, or may revoke, or may suspend for not more than 90 days, a license issued pursuant to this chapter for any 1 or a combination of the following reasons:

(1) Conviction of any felony, or a finding by the Mayor that any provision of this chapter has been violated, or that any law or regulation of the District of Columbia or of the United States relating to drugs has been violated by any person named in the application for pharmacy licensure;

(2) Furnishing false or misleading information to the Mayor, or failing to furnish information requested by the Mayor, or refusing to allow an inspection in accordance with this section and § 2-2016; or

(3) Selling, or offering for sale, adulterated or misbranded drugs or devices.

(b) The Mayor shall forthwith suspend a license issued pursuant to this chapter whenever the Mayor finds that the failure of a pharmacy to comply with any provision of this chapter or with any District of Columbia or federal law or regulation applicable to such pharmacy is of such a serious nature and magnitude that an imminent danger to the health or safety of the public is presented. In such a case, if a hearing is requested, such request or hearing shall not serve to stay the issuance of an order suspending the license. (Sept. 16, 1980, D.C. Law 3-98, § 11, 27 DCR 3528.)

**Legislative history of Law 3-98.** — See note to § 2-2001.

### **§ 2-2011. Pharmacy personnel.**

(a)(1) No personnel working in any capacity, the activities of which include contact with any merchandise or drugs in a pharmacy or the care of dispensing, manufacturing, or storage facilities, who is affected by, or believed by the Mayor, upon reasonable grounds to be affected by, a communicable disease and no person who is or is believed by the Mayor, upon reasonable grounds, to be a carrier of a communicable disease shall actively engage in any work in a pharmacy.



(2) No proprietor of any pharmacy or manager of any pharmacy shall intentionally permit any person who is, or is believed by the Mayor, upon reasonable grounds, to be, a carrier of a communicable disease to engage or continue to be engaged in any work in the pharmacy.

(b) No person shall work in any capacity in a pharmacy if he or she:

(1) Is afflicted with boils, infectious wounds, sores, or an acute respiratory infection;

(2) Is wearing unclean garments;

(3) Is a chronic alcoholic as that term is defined in § 24-522; or

(4) Does not follow hygienic work practices, including the washing of hands thoroughly before commencing work and as often as is necessary thereafter to remove soil and contamination. (Sept. 16, 1980, D.C. Law 3-98, § 12, 27 DCR 3528; May 10, 1989, D.C. Law 7-231, § 10, 36 DCR 492.)

**Section references.** — This section is referred to in § 2-2010.

**Legislative history of Law 3-98.** — See note to § 2-2001.

**Legislative history of Law 7-231.** — Law 7-231, the "Technical Amendments Act of 1988," was introduced in Council and assigned

Bill No. 7-586, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-285 and transmitted to both Houses of Congress for its review.

## § 2-2012. Bulk sales or transfers.

(a)(1) Bulk sales or transfers of drugs or medical devices shall not be made unless the Mayor is notified prior to the proposed transaction and the Mayor finds that the drugs or medical devices are fit for the use for which they were originally intended. For the purposes of this section, the term "bulk sales or transfers" shall mean the sale or transfer of the entire inventory, or any substantial part thereof, in any 1 transaction or in any merchandising effort referred to as an "auction sale," a "bankruptcy sale," "distress sale," or a "closing-out sale"; but the term "bulk sales or transfers" shall not include transfers between stores having common ownership.

(2) A sale of merchandise to a single customer having a value of \$500 or more in any 1-week period shall be considered the sale of a substantial part of the inventory and as 1 transaction unless the sale constitutes the filling of a prescription, or results from a cooperative buying order. If drugs are acquired by such transactions in other jurisdictions, the Mayor shall be notified, and the drugs shall be officially inspected and released by the Mayor prior to sale or other disposition in the District. Bulk quantities of drugs may be transferred only to persons legally entitled to sell or dispense the drugs.

(b) This section supplements and does not replace Chapter 21 of Title 47. (Sept. 16, 1980, D.C. Law 3-98, § 13, 27 DCR 3528.)

**Legislative history of Law 3-98.** — See note to § 2-2001.

**§ 2-2013. Deteriorating drugs; sample drugs; returned drugs.**

(a) Drugs which may deteriorate shall at all times be stored under conditions specified on the label of the original container and in accordance with applicable District of Columbia or federal laws or regulations, and shall not be sold or dispensed after the expiration date designated on the label of the original container, and in accordance with applicable District of Columbia or federal laws or regulations.

(b) Drugs designated "sample" shall not be sold.

(c) A drug which has been returned after leaving the pharmacy shall not be placed in stock for reuse or resale, except manufacturer packaged unit dose or unit of use drugs which have been unopened and unaltered. (Sept. 16, 1980, D.C. Law 3-98, § 14, 27 DCR 3528.)

**Legislative history of Law 3-98.** — See note to § 2-2001.

**§ 2-2014. Labeling of prescriptions.**

All drugs shall be dispensed in a suitable container appropriately labeled for subsequent administration to or use by an individual entitled to the drug. Any drug dispensed, except to inpatients of a licensed hospital, shall include on the label of the container the name of the drug and the strength of the drug when applicable, unless otherwise directed by the prescribing practitioner, and the name, address and telephone number of the pharmacy filling the prescription, the prescription number, the date of issuance and the name of the prescriber, directions for use, the name of the individual for whom the prescription is written, and other information and labeling which may be required by any District of Columbia or federal laws or regulations. (Sept. 16, 1980, D.C. Law 3-98, § 15, 27 DCR 3528.)

**Legislative history of Law 3-98.** — See note to § 2-2001.

**§ 2-2015. Records.**

(a) There shall be maintained in every pharmacy, or in the establishment or institution where a pharmacy is located, a suitable book, file, or other easily retrievable record, in which shall be preserved for a period of not less than 2 years every prescription compounded or dispensed at said pharmacy.

(b)(1) There shall be maintained a bound volume recording the information required by law or regulation concerning the over-the-counter sales of those drugs which are listed in schedule V established or amended pursuant to the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. § 801 et seq.).

(2) There shall also be maintained a bound volume in which shall be entered similar information concerning each sale of:

(A) Hypodermic syringes, needles, or other medical devices which may be used in the administration of controlled substances;

(B) Gelatin capsules and glassine envelopes in quantities sufficient to indicate an intention to use such items in the distribution of controlled substances; and

(C) Diluents or adulterants, such as lactose or quinine, in quantities sufficient to indicate an intention to use such substances for the illegal distribution or dispensing of any controlled substance.

(c) The records required to be maintained by this section shall be available for inspection by the Mayor during regular business hours. (Sept. 16, 1980, D.C. Law 3-98, § 16, 27 DCR 3528.)

**Legislative history of Law 3-98.** — See note to § 2-2001.

## § 2-2016. Inspections.

(a) Persons designated by the Mayor shall be permitted, after presenting proper identification, to enter at reasonable times any pharmacy or drug outlet for the purpose of making inspections to determine compliance with this chapter or with other laws or regulations applicable to the practice of pharmacy. Persons designated by the Mayor shall be pharmacists for the purpose of making inspections to determine compliance with those sections of this chapter and other applicable laws and regulations regarding the practice of pharmacy as defined within this chapter.

(b) This inspection may include, but shall not be limited to, the examination of the pharmacy's records, including prescriptions, and the obtaining of information and samples pertaining to drugs on hand or dispensed. (Sept. 16, 1980, D.C. Law 3-98, § 17, 27 DCR 3528.)

**Legislative history of Law 3-98.** — See note to § 2-2001.

## § 2-2017. Peddling drugs prohibited.

It shall be unlawful for any person to sell or offer for sale by peddling, or to offer for sale from house to house, or to offer for sale by public outcry, or by vending in the street, any drug, medicine, chemical, or controlled substance as defined in the District of Columbia Uniform Controlled Substances Act of 1981, or any compound or combination thereof, or any implement, appliance, or other agency for the treatment of disease, injury, or deformity; except, as may be otherwise authorized by law, no person shall throw, cast, deposit, drop, scatter, or leave, or cause to be thrown, cast, deposited, dropped, scattered, or left, any drug, medicine, chemical, or controlled substance as defined in the District of Columbia Uniform Controlled Substances Act of 1981, or any compound or combination thereof, upon any public highway or place, or, without the consent of the owner or occupant thereof, upon any premises in the District of Columbia. An offer for sale by peddling includes remaining or wandering about a public place and:



- (1) Repeatedly beckoning to, repeatedly stopping, repeatedly attempting to stop, or repeatedly attempting to engage passers-by in conversation;
- (2) Repeatedly stopping or attempting to stop motor vehicles; or
- (3) Repeatedly interfering with the free passage of other persons for the purpose of selling any controlled substance proscribed by the District of Columbia Uniform Controlled Substances Act of 1981. (Sept. 16, 1980, D.C. Law 3-98, § 18, 27 DCR 3528; Dec. 10, 1981, D.C. Law 4-57, § 4, 28 DCR 4642.)

**Section references.** — This section is referred to in § 2-2010.

**Legislative history of Law 3-98.** — See note to § 2-2001.

**Legislative history of Law 4-57.** — Law 4-57, the “Control of Prostitution and Sale of Controlled Substances in Public Places Criminal Control Act of 1981,” was introduced in Council and assigned Bill No. 4-184, which was referred to the Committee on the Judiciary.

The Bill was adopted on first and second readings on September 15, 1981, and September 29, 1981, respectively. Signed by the Mayor on October 19, 1981, it was assigned Act No. 4-98 and transmitted to both Houses of Congress for its review.

**References in text.** — The “District of Columbia Uniform Controlled Substances Act of 1981,” referred to throughout this section, is D.C. Law 4-29.

## § 2-2017.1. Public place defined.

For the purposes of § 2-2017, the term “public place” means any street, sidewalk, bridge, alley, plaza, park, driveway, parking lot, transportation facility, or the doorways and entrance ways to any building which fronts on any of these locations, or a motor vehicle in or on any such place. (Dec. 10, 1981, D.C. Law 4-57, § 2(2), 28 DCR 4642.)

**Legislative history of Law 4-57.** — See note to § 2-2017.

**Editor’s notes.** — The phrase “§ 2-2017” was

substituted for “this act” near the beginning of this section for clarity. The act referred to was D.C. Law 4-57.

## § 2-2018. Duties of Mayor.

(a) The Mayor shall:

- (1) Administer and enforce the provisions of this chapter;
- (2) Repealed;
- (3) Adopt and publish such regulations as may be necessary for the implementation of this chapter, including, but not limited to, regulations concerning the following:
  - (A)-(C) Repealed;
  - (D) The establishment of various classifications of pharmacies, including, but not limited to, retail, institutional, radio, or nuclear pharmacies;
  - (E)-(G) Repealed;
  - (H) Establishment of minimum standards for the operation of pharmacies, including the minimum requirements for technical equipment and professional reference materials;
  - (I) The safe and proper storage, and maintenance of drugs, and the disposal of drugs;
  - (J) The requirements to assure that pharmacies shall be clean, in good repair, well ventilated and illuminated, and equipped with the necessary dis-

dispensing facilities, and adequate facilities for the purposes of cleansing hands, equipment and utensils, and the premises therein; such facilities may be located in areas adjacent to the pharmacy where only part of an establishment or institution is used as the pharmacy; and

(K) The establishment of regulations covering the storage and dispensing of radiopharmaceuticals.

(b) Repealed. (Sept. 16, 1980, D.C. Law 3-98, § 19, 27 DCR 3528; Mar. 25, 1986, D.C. Law 6-99, § 1102(d), 33 DCR 729.)

**Legislative history of Law 3-98.** — See note to § 2-2001.

**Legislative history of Law 6-99.** — See note to § 2-2002.

## § 2-2019. Fees.

(a) The initial fees shall be as follows: (1) Repealed; (2) pharmacy license, \$85; (3) every person who sells over-the-counter preparations shall pay an annual license fee of \$52. The fees referred to in this subsection shall be established in such amounts as will, in the judgment of the Mayor, approximate the costs to the District of Columbia government for administering this chapter. The Mayor is authorized to change the fees from time to time for any services rendered under this chapter; provided, that, the Mayor gives 30 days notice prior to changing such fees.

(b) The Mayor is authorized after 30 days notice to establish and to change, as may be necessary, the expiration dates of licenses and registrations provided for in this chapter. Upon the change of an expiration date, the renewal fee for the licenses, or registrations, shall be prorated on the basis of the time covered. (Sept. 16, 1980, D.C. Law 3-98, § 20, 27 DCR 3528; Mar. 25, 1986, D.C. Law 6-99, § 1102(e), 33 DCR 729.)

**Legislative history of Law 3-98.** — See note to § 2-2001.

**Legislative history of Law 6-99.** — See note to § 2-2002.

## § 2-2020. Penalties; prosecutions; injunction.

(a) Any person who violates any provision of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months or both for each violation.

(b) Prosecutions for violations of any provision of this chapter shall be conducted in the Superior Court of the District of Columbia, by the Corporation Counsel. It shall be sufficient to prove in any prosecution or hearing under this chapter only a single act prohibited by law or a single holding out, or any attempt thereof, without proving a general course of conduct in order to constitute a violation.

(c) In addition to the remedy set forth in this section, application may be made to a court having competent jurisdiction over the parties and subject matter for a writ of injunction or other civil remedy to restrain violations of the provisions of this chapter. Such application may be made by the Corporation Counsel.

(d) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this chapter shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (Sept. 16, 1980, D.C. Law 3-98, § 21, 27 DCR 3528; Oct. 5, 1985, D.C. Law 6-42, § 409, 32 DCR 4450.)

**Legislative history of Law 3-98.** — See note to § 2-2001.

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Commit-

tee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

## **§ 2-2021. Review.**

Any person aggrieved by an adverse action of the Mayor may appeal to the Board of Appeals and Review established by Organization Order No. 112, dated August 15, 1955. The Board of Appeals and Review shall, in accordance with such Organization Order, and its rules of practice and procedure, provide the aggrieved person with an opportunity for a hearing and shall sustain, modify, or vacate such adverse action by the Mayor as is appropriate in the case. The decision of the Board of Appeals and Review shall be the final administrative remedy. Any person who is adversely affected by a decision of the Board of Appeals and Review may seek judicial review thereof in the District of Columbia Court of Appeals, pursuant to Chapter 15 of Title 1. (Sept. 16, 1980, D.C. Law 3-98, § 22, 27 DCR 3528.)

**Legislative history of Law 3-98.** — See note to § 2-2001.

**Amendment of Organization Order No.**

**112, Commissioners' Order No. 55-1500, establishing Board of Appeals and Review.** — See Mayor's Order 84-31, February 9, 1984.

## **§ 2-2022. Severability.**

If any provision of this chapter is for any reason held invalid by any court of competent jurisdiction, the provision shall be deemed a separate, distinct, and independent provision, and its invalidity shall not affect the validity of the remaining provisions. (Sept. 16, 1980, D.C. Law 3-98, § 23, 27 DCR 3528.)

**Legislative history of Law 3-98.** — See note to § 2-2001.

## **§ 2-2023. Effect of chapter on prior regulations.**

The provisions of this chapter supplement all other regulations and laws applicable in the District of Columbia. Regulations heretofore in effect in the District of Columbia which are inconsistent with the provisions of this chapter



are hereby superseded with respect to matters covered by this chapter. (Sept. 16, 1980, D.C. Law 3-98, § 24(c), 27 DCR 3528.)

**Legislative history of Law 3-98.** — See note to § 2-2001.

## CHAPTER 21. PLUMBERS.

Sec.

2-2101. Plumbing Board authorized; appointment; composition.

2-2102. Licenses — Examination of applicants; issuance.

2-2103. Same — Application.

2-2104. Bond.

Sec.

2-2105. Licenses — Renewal; fees; suspension or revocation.

2-2106. Same — Required.

2-2107. Employment of unlicensed person prohibited.

2-2108. Penalty; prosecutions.

### § 2-2101. Plumbing Board authorized; appointment; composition.

Omitted.

**Omission of text.** — The provisions of former § 2-2101 have been omitted as obsolete, the Board referred to herein having been abolished.

**Cross references.** — As to honorariums to various board members and commissioners, see § 1-348. As to compensation for members of boards and commissions, see § 1-612.8. As to plumbing inspection, see §§ 1-1022 to 1-1025.

**Section references.** — This section is referred to in §§ 1-349 and 1-1462.

**Plumbing Board abolished.** — The Plumbing Board was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. The functions were delegated to the Department of Occupations and Professions by Reorganization Order No. 59, dated June 30, 1953. The executive functions of the Board of Commissioners were

transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. The functions delegated to the Department of Occupations and Professions were subsequently transferred to the Director of the Department of Economic Development by Commissioner's Order No. 69-96, dated March 7, 1969. The Department of Economic Development was replaced by Mayor's Order 78-42, dated February 17, 1978, which Order created the Department of Licenses, Investigation and Inspections. The functions of the Department of Licenses, Investigations and Inspections were transferred to the Director of the Department of Consumer and Regulatory Affairs by Reorganization Plan No. 1 of 1983, effective March 31, 1983.

**Regulations.** — Governing regulations are published at 13 DCMR 3000 et seq.

### § 2-2102. Licenses — Examination of applicants; issuance.

In addition to such advisory duties as said Mayor of the District of Columbia shall assign them, it shall be the duty of said Plumbing Board to examine all applicants for license as master plumbers or gas fitters, and to report to said Mayor, who, if satisfied from such report that the applicant is a fit person to engage in the business of plumbing or gas fitting, shall issue a license to such person to engage in such business. (June 18, 1898, 30 Stat. 477, ch. 467, § 2; 1973 Ed., § 2-1402.)

**Cross references.** — As to Council's authority to regulate, modify, or eliminate license requirements, see § 47-2842. As to Council's authority to promulgate regulations, see § 47-2844.

**Section references.** — This section is referred to in § 1-349.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts

Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of

Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to

§ 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**Plumbing Board abolished.** — See note to § 2-2101.

## § 2-2103. Same — Application.

Applicants for licenses as master plumbers and gas fitters or master gas fitters, who are citizens of the United States, must be 18 years of age, must make application in their own handwriting, and must accompany such application with a certificate as to good character signed by at least 3 reputable residents of the District of Columbia, 2 of whom shall certify that the applicants have had at least 4 years experience in the plumbing and gas fitting business. (June 18, 1898, 30 Stat. 477, ch. 467, § 3; July 14, 1932, 47 Stat. 659, ch. 476, § 3; 1973 Ed., § 2-1403; July 22, 1976, D.C. Law 1-75, § 3(g), 23 DCR 1178.)

**Section references.** — This section is referred to in § 1-349.

**Legislative history of Law 1-75.** — Law 1-75, the "District of Columbia Age of Majority Act of 1976," was introduced in Council and assigned Bill No. 1-252, which was referred to the Committee on Public Services and Con-

sumer Affairs. The Bill was adopted on first and second readings on April 6, 1976, and April 20, 1976, respectively. Signed by the Mayor on May 14, 1976, it was assigned Act No. 1-116 and transmitted to both Houses of Congress for its review.

## § 2-2104. Bond.

The said Mayor and his successors are authorized and empowered to require every person licensed to practice the business of plumbing and gas fitting in the District of Columbia, before engaging in the said business, to file a bond in such amount not exceeding the sum of \$2,000 and with such number of sureties as the said Mayor shall determine, conditioned upon the faithful performance of all work in compliance with the plumbing regulations, and that the District of Columbia shall be kept harmless from the consequence of any and all acts of the said licensee during the period covered by the said bond. (Apr. 23, 1892, 27 Stat. 21, ch. 53, § 2; Mar. 3, 1893, 27 Stat. 543, ch. 199; 1973 Ed., § 2-1404.)

**Section references.** — This section is referred to in § 1-349.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat.

818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**Action against surety when bond named only District as obligee.** — Purchasers of property upon which sewer pipe was allegedly negligently installed by plumber could not bring action against plumber's surety on in-



demnity bond which named only District of Columbia as obligee therein. *Bolten v. Clarke*, App. D.C., 125 A.2d 60 (1956).

## § 2-2105. Licenses — Renewal; fees; suspension or revocation.

(a) All renewals of existing licenses and all new licenses as a master plumber and gas fitter or master gas fitter shall be for a period of not more than 1 year, and the fee for the issuance of such license shall be \$10 per annum, and for the renewal of such license, the fee shall be \$60 per annum for a license year beginning January 1st and ending December 31st. Such special license fee shall be separate from, or in addition to, any contractors' or business license tax, hereafter fixed for this and similar occupations by the Mayor of the District of Columbia according to law. Licenses issued at any time after the beginning of the year shall date from the 1st day of the month in which the license is issued and end on the last day of the license year, and payment shall be made of a proportional amount of the annual license fee. Any licensee may apply for and receive a license for or on behalf of any firm, copartnership, or corporation that he is a bona fide member of or a substantial stockholder in, but all plumbing or gas fitting done pursuant to such license shall be done under the immediate personal supervision of the licensed man. In addition to the fees listed above, there are also established the following fees:

- (1)(A) Application fee for examination for license as a master plumber, gas fitter, or master gas fitter ..... \$10;
- (B) Examination fee ..... \$40;
- (2) Fee for certifying records ..... \$20;
- (3) If the request for annual renewal is late, an additional fee of \$10.

(b) The Mayor of the District of Columbia or his duly authorized agent shall have the power to suspend or revoke any plumber's or gas fitter's license for a violation of the plumbing or gas fitting regulations after a public hearing granted the licensee, or after conviction in court for such violation or for conduct involving moral turpitude. (June 18, 1898, 30 Stat. 477, ch. 467, § 4; July 14, 1932, 47 Stat. 659, ch. 476, § 4; 1973 Ed., § 2-1405; Sept. 14, 1976, D.C. Law 1-82, title V, § 503, 23 DCR 2461; June 22, 1983, D.C. Law 5-14, § 205, 30 DCR 2632.)

**Cross references.** — As to Mayor's authority to fix fees, see § 1-346. As to Mayor's authority to increase or decrease fees, see § 1-347. As to penalties for violation of regulations, see § 1-1023. As to administrative procedure, see Chapter 15 of Title 1. As to judicial review, see § 11-722. As to refund of fees when license is refused, see § 47-1318. As to Council's authority to regulate, modify, or eliminate license requirements, see § 47-2842. As to Council's authority to promulgate regulations, see § 47-2844.

**Section references.** — This section is referred to in §§ 1-346 and 1-349.

**Legislative history of Law 1-82.** — Law

1-82, the "License Fees and Charges Act of 1976," was introduced in Council and assigned Bill No. 1-237, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 23, 1976, and April 6, 1976, respectively. Signed by the Mayor on June 22, 1976, it was assigned Act No. 1-135 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 5-14.** — Law 5-14, the "District of Columbia Revenue Act of 1983," was introduced in Council and assigned Bill No. 5-74, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April

12, 1983 and April 26, 1983, respectively. Signed by the Mayor on May 4, 1983, it was assigned Act No. 5-29 and transmitted to both Houses of Congress for its review.

**Effect of failure to comply with statute on contractor's liability.** — The alleged failure of a duly licensed corporation engaged in the plumbing business to perform plumbing work in accordance with subsection (a)'s requirement that all work by unlicensed persons be done under the immediate supervision of a licensed plumber did not relieve the contractor, which had engaged the corporation, from liability for the plumbing job which was otherwise properly performed. *Cook v. James E. Griffith, Inc.*, App. D.C., 193 A.2d 427 (1963).

**Company working under permit obtained by master plumber not excused from license requirement.** — The mere fact that plumbing company was working under a permit obtained by a master plumber does not, in itself, satisfy or excuse the company from the licensing requirement; the issuance of a permit to the master plumber, not under con-

tract to the plumbing company, cannot mask the character of the work performed by the company. *Highpoint Townhouses, Inc. v. Rapp*, App. D.C., 423 A.2d 932 (1980).

**Action against surety when bond named only District as obligee.** — Purchasers of property upon which sewer pipe was allegedly negligently installed by plumber could not bring action against plumber's surety on indemnity bond which named only District of Columbia as obligee therein. *Bolten v. Clarke*, App. D.C., 125 A.2d 60 (1956).

**Administrative interpretation of "immediate personal supervision" held not clearly wrong.** — An administrative interpretation that the requirement in subsection (a) that plumbing work be done under a licensed plumber's immediate personal supervision did not necessitate his physical presence on the site was not clearly wrong and would be entitled to due respect of court interpreting the provision. *Cook v. James E. Griffith, Inc.*, App. D.C., 193 A.2d 427 (1963).

## § 2-2106. Same — Required.

It shall be unlawful for any person to engage in the work of plumbing or gas fitting in the District of Columbia unless he is licensed as provided in this chapter, or is an employee of a licensed master plumber. (June 18, 1898, 30 Stat. 477, ch. 467, § 5; 1973 Ed., § 2-1406.)

**Section references.** — This section is referred to in § 1-349.

**Mechanic's lien unenforceable where underlying contract unenforceable.** — If the underlying contract to perform plumbing services is unenforceable, for violation of this section, a mechanic's lien is also unenforceable. *Highpoint Townhouses, Inc. v. Rapp*, App. D.C., 423 A.2d 932 (1980).

**Company working under permit obtained by master plumber not excused from license requirement.** — The mere fact that plumbing company was working under a permit obtained by a master plumber does not, in itself, satisfy or excuse the company from the licensing requirement; the issuance of a permit to the master plumber, not under con-

tract to the plumbing company, cannot mask the character of the work performed by the company. *Highpoint Townhouses, Inc. v. Rapp*, App. D.C., 423 A.2d 932 (1980).

**Contracting party not permitted to recover when licensing law violated.** — When a licensing law designed to protect the public is violated, the party contracting to provide services without the necessary license will not be permitted to recover, even though a member of the protected class of consumers was also a party to the contract. *Highpoint Townhouses, Inc. v. Rapp*, App. D.C., 423 A.2d 932 (1980).

**Presence of District of Columbia inspector does not relieve plumber of licensing requirement.** *Highpoint Townhouses, Inc. v. Rapp*, App. D.C., 423 A.2d 932 (1980).

## § 2-2107. Employment of unlicensed person prohibited.

It shall be unlawful for the owner or lessee of any building in the District of Columbia, or the agent or representative of such owner or lessee, to knowingly employ an unlicensed person to do plumbing or gas fitting in or about such building. (June 18, 1898, 30 Stat. 477, ch. 467, § 6; 1973 Ed., § 2-1407.)

**Section references.** — This section is referred to in § 1-349.

**Cited in** Longus v. First Mgt., Inc., 664 F. Supp. 13 (D.D.C. 1987).

## § 2-2108. Penalty; prosecutions.

Any person violating any of the provisions of this chapter shall, on conviction thereof in the Superior Court of the District of Columbia, be punished by a fine of not less than \$5 nor more than \$100; and in default of payment of such fine such person shall be confined in the Workhouse of the District of Columbia for a period not exceeding 6 months; and all prosecutions under this chapter shall be in the Superior Court of the District of Columbia, in the name of the District of Columbia. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules and regulations issued under the authority of this chapter, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this chapter shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (June 18, 1898, 30 Stat. 477, ch. 467, § 8; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 2-1408; Oct. 5, 1985, D.C. Law 6-42, § 474, 32 DCR 4450.)

**Cross references.** — As to penalties for violation of regulations, see § 1-1023.

**Section references.** — This section is referred to in § 1-349.

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill

No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.



CHAPTER 22. PODIATRY.

Sec.

2-2201 to 2-2220. [Repealed].

**§§ 2-2201 to 2-2220. Board of Podiatry Examiners; duty of Secretary-Treasurer to enforce law; prosecutions; legal services to Board; investigations; license; fees; disposition; annual registration; fees; failure to register; reinstatement; "practicing podiatry" defined; exemptions from chapter; display of license and annual registration card; sale of or offer to sell diploma, certificate, or license; fraudulent use; alteration; practice under false name; false representations concerning degree, application, or examination; postgraduate classes without approval prohibited; practice without a license; construction of personal pronouns; definitions; rules and regulations; imposition of civil fines, penalties, and fees; adjudications.**

Repealed. Mar. 25, 1986, D.C. Law 6-99, § 1104(c), 33 DCR 729.

**Cross references.** — As to regulation of health occupations, see Chapter 33 of this title.

**Legislative history of Law 6-99.** — Law 6-99, the "District of Columbia Certificate of Need Act of 1980," was introduced in Council and assigned Bill No. 6-317, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 17, 1985, and January 14, 1986, respectively. Signed by

the Mayor on January 28, 1986, it was assigned Act No. 6-127 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — Section 464 of D.C. Law 6-42 had added a § 20 to the Act of May 23, 1918, codified as § 2-2220, and effective October 5, 1985; this section was subject to the subsequent repeal of the 1918 Act by § 1104(c) of D.C. Law 6-99.

## CHAPTER 23. PROFESSIONAL ENGINEERS.

Sec.

- 2-2301. Short title.
- 2-2302. Definitions.
- 2-2303. Declaration of policy.
- 2-2304. Practice of engineering without registration prohibited.
- 2-2305. District of Columbia Board of Registration for Professional Engineers — Created; duty; composition; appointment; qualifications; term of office; oath of office; removal; vacancies.
- 2-2306. Same — Compensation — Omitted.
- 2-2307. Same — Meetings; officers; quorum.
- 2-2308. Same — Powers.

Sec.

- 2-2309. Same — Complaints; hearings; appeals.
- 2-2310. Exemptions from chapter.
- 2-2311. Seal of registrant.
- 2-2312. Display of certificate of registration.
- 2-2313. Fees; Professional Engineers' Fund; expenses of Board; audit.
- 2-2314. Unlawful acts.
- 2-2315. Prosecutions; legal services to Board; investigations; injunctions.
- 2-2316. Annual report.
- 2-2317. Severability.
- 2-2318. Conflicting laws and regulations repealed.

### § 2-2301. Short title.

This chapter shall be known and may be cited as the Professional Engineers' Registration Act. (Sept. 19, 1950, 64 Stat. 854, ch. 953, § 1; 1973 Ed., § 2-1801.)

**Section references.** — This section is referred to in § 1-349.

**Cited in** Harbor Ins. Co. v. Omni Constr., Inc., 912 F.2d 1520 (D.C. Cir. 1990).

### § 2-2302. Definitions.

As used in this chapter:

(1) The term "practice of engineering" shall mean the performance of any professional service or creative work requiring engineering education, training, and experience, and the application of special knowledge of the mathematical, physical, and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, design, and supervision of construction for the purpose of assuring compliance with specifications and design, in connection with the utilization of the forces, energies, and materials of nature in the development, production, and functioning of engineering processes, apparatus, machines, equipment, facilities, structures, works, or utilities, or any combinations or aggregations thereof employed in or devoted to public or private enterprise or uses. The term "practice of engineering" comprehends the practice of those branches of engineering, the pursuit of any of which affects the safety of life, health or property, or the public welfare. Said practice includes the doing of such architectural work as is incidental to the practice of engineering.

(2) The term "professional engineer" shall mean a person who, by reason of his special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, customarily acquired by a prolonged course of specialized intellectual instruction and study and practical experience, is qualified to engage in the practice of engineering as attested by his certificate of registration as a professional engineer.

(3) The term "engineer-in-training" shall mean a candidate for registration as a professional engineer who has been granted a certificate as an engineer-in-training after successfully passing the 1st stage of the prescribed examination in fundamental engineering subjects, and who, upon completion of the requisite years of training and experience in engineering under the supervision of a professional engineer or similarly qualified engineer and satisfactory to the Board, shall be eligible for the 2nd stage of the prescribed examination for registration as a professional engineer.

(4) The term "responsible charge" shall mean such degree of competence and accountability gained by education, training, and experience in engineering of a grade and character sufficient to qualify an individual to engage personally and independently in and be entrusted with the work involved in the practice of engineering.

(5) The term "institution" shall mean a school, college, university, department of a university, or other educational institution granting baccalaureate degrees in engineering, reputable, and in good standing in accordance with the rules prescribed by the Board.

(6) The term "Board" shall mean the District of Columbia Board of Registration for Professional Engineers.

(7) The term "Mayor" shall mean the Mayor of the District of Columbia. (Sept. 19, 1950, 64 Stat. 854, ch. 953, § 2; 1973 Ed., § 2-1802.)

**Section references.** — This section is referred to in § 1-349.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**Board of Registration for Professional**

**Engineers abolished.** — See note to § 2-2305.

**Statutory requirements for professional engineers can be met by natural persons only,** and a corporation cannot be licensed as professional engineer. *Potomac Eng'rs, Inc. v. Walser*, 127 F. Supp. 41 (D.D.C. 1954), *aff'd*, 223 F.2d 356 (D.C. Cir. 1955).

**Preparation of certain electrical plans not "practice of engineering".** — The preparation by duly licensed master electricians of plans, diagrams, and computations for proposed installations in which carrying capacity will exceed 200 amperes or electrical potential will exceed 240 volts does not constitute "practice of engineering" as contemplated by this chapter, and an order providing that plans and specifications for such electrical installations should be prepared by registered professional electrical engineer was not required under this chapter. *Electrical Contractors Ass'n v. McLaughlin*, 153 F. Supp. 653 (D.D.C. 1957).

**Cited in** *Becker v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 518 A.2d 93 (1986).



**§ 2-2303. Declaration of policy.**

In order to safeguard life, health, and property, and promote the public welfare, the practice of engineering in the District of Columbia is hereby declared to be subject to regulation in the public interest. It is further declared to be a matter of public interest and concern that the profession of engineering merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practice of engineering. All provisions of this chapter relating to the practice of engineering shall be construed in accordance with this declaration of policy. (Sept. 19, 1950, 64 Stat. 855, ch. 953, § 3; 1973 Ed., § 2-1803.)

**Section references.** — This section is referred to in § 1-349.

**§ 2-2304. Practice of engineering without registration prohibited.**

Any person engaged in or offering to engage in the practice of engineering in the District of Columbia shall submit evidence that he is qualified to practice and shall be registered as hereinafter provided; and it shall be unlawful for any person to engage or offer to engage in the practice of engineering in the District of Columbia, or by verbal claim, sign, advertisement, letterhead, card, or in any other way, represent himself to be a professional engineer, or through the use of the title including the word "engineer" or words of like import, or any other title, imply that he is a professional engineer, unless such person is registered under the provisions of this chapter. (Sept. 19, 1950, 64 Stat. 855, ch. 953, § 4; 1973 Ed., § 2-1804.)

**Section references.** — This section is referred to in § 1-349.

**Cited in** *Bell v. Jones*, App. D.C., 523 A.2d 982 (1986).

**§ 2-2305. District of Columbia Board of Registration for Professional Engineers — Created; duty; composition; appointment; qualifications; term of office; oath of office; removal; vacancies.**

Omitted.

**Omission of text.** — The provisions of former § 2-2305 have been omitted as obsolete, the Board referred to herein having been abolished.

**Section references.** — This section is referred to in §§ 1-349 and 1-1462.

**Board of Registration for Professional Engineers abolished.** — The District of Columbia Board of Registration for Professional Engineers was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. The functions were

delegated to the Department of Occupations and Professions by Reorganization Order No. 59, dated June 30, 1953. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Section 402 (64), (65), (66), (67) and (68) of the Plan transferred the regulatory and other functions of the Board of Commissioners, under § 2-2308, to the District of Columbia Council to the extent and in the particulars specified in that section, subject to the right of the Commissioner as provided by

§ 406 of the Plan. The functions delegated the Department of Occupations and Professions were subsequently transferred to the Director of the Department of Economic Development by Commissioner's Order No. 69-96, dated March 7, 1969. The Department of Economic Development was replaced by Mayor's Order 78-42, dated February 17, 1978, which Order

established the Department of Licenses, Investigation and Inspection.

The functions of the Department of Licenses, Investigations and Inspections were transferred to the Director of the Department of Consumer and Regulatory Affairs by Reorganization Plan No. 1 of 1983, effective March 31, 1983.

## § 2-2306. Same — Compensation.

Omitted.

**Omission of text.** — The provisions of former § 2-2306 have been omitted as obsolete, the Board referred to herein having been abolished.

**Cross references.** — As to honorariums to various board members and commissioners, see § 1-348. As to compensation for members of boards and commissions, see § 1-612.8.

**Section references.** — This section is referred to in §§ 1-349 and 2-2313.

**Board of Registration for Professional Engineers abolished.** — See note to § 2-2305.

## § 2-2307. Same — Meetings; officers; quorum.

Omitted.

**Omission of text.** — The provisions of former § 2-2307 have been omitted as obsolete, the Board referred to herein having been abolished.

**Section references.** — This section is referred to in § 1-349.

**Board of Registration for Professional Engineers abolished.** — See note to § 2-2305.

## § 2-2308. Same — Powers.

The Board shall have power:

(1) To investigate and to approve those institutions that provide and maintain satisfactory standards for the education of students desiring to engage in the practice of engineering;

(2)(A) To register as a professional engineer any person of good character and repute who is a citizen of the United States, at least 18 years of age, and who speaks and writes the English language, if such person:

(i) Holds a license or certificate of registration to engage in the practice of engineering issued to him by proper authority of a state or territory of the United States in which the requirements and qualifications for obtaining such license or certificate of registration are reasonably equivalent in the opinion of the Board to the standards set forth in this chapter. A person may be registered under this sub-subparagraph without examination;

(ii) Holds a certificate of qualification issued by the National Bureau of Engineering Registration of the National Council of State Boards of Engineering Examiners; provided, however, that the requirements and qualifications of said body for obtaining such certificate are reasonably equivalent, in the opinion of the Board, to the standards set forth in this chapter. A person may be registered under the provisions of this sub-subparagraph without examination;

(iii) Has had 4 or more years experience in engineering work of a grade or character satisfactory to the Board, and indicating that he is qualified to assume responsible charge of the work involved in the practice of engineering and either holds a certificate as an engineer-in-training issued to him by the Board or by proper authority of a state or territory in which the requirements and qualifications of said bodies for obtaining such certificate are reasonably equivalent, in the opinion of the Board, to the standards set forth in this chapter, or is a graduate in engineering from an institution having a course in engineering of 4 or more years, and who, in either event, successfully passes a written, or written and oral, examination prescribed by the Board of engineering subjects. In the case of the examination of an engineer-in-training, his examination shall be directed and limited to those matters which will test the applicant's ability to apply the principles of engineering to the actual practice of engineering. In the case of an applicant who is not an engineer-in-training, the examination shall be for the purpose of testing the applicant's knowledge of fundamental engineering subjects, including mathematics and the physical sciences, and those matters which will test the applicant's ability to apply the principles of engineering to the actual practice of engineering;

(iv) Has completed an approved secondary-school course of study or equivalent and has had 12 or more years of combined education and experience in engineering of a grade and character satisfactory to the Board and indicating that he is qualified to assume responsible charge of the work involved in the practice of engineering, and who successfully passes a written, or written and oral, examination prescribed by the Board for the purpose of testing the applicant's knowledge of fundamental engineering subjects, including mathematics and the physical sciences, and those matters which will test the applicant's ability to apply the principles of engineering to the actual practice of engineering;

(v) Submits evidence that he is an engineer of established and recognized standing in the engineering profession and that he has been lawfully engaged in the practice of engineering for 12 or more years, of which at least 5 years shall have been in responsible charge of important engineering work of a grade and character satisfactory to the Board. A person may be registered under this sub-subparagraph without examination; or

(vi) Submits evidence that he was a resident of the District of Columbia, or that he was engaged in the practice of engineering in the District of Columbia, prior to September 19, 1950, and for 1 year immediately preceding the date of his application, and submits evidence of experience in engineering, of a grade and character satisfactory to the Board, indicating that he is qualified to assume responsible charge of the work involved in the practice of engineering. Registration shall not be granted under the provisions of this sub-subparagraph unless the application therefor is filed with the Board within 1 year after September 19, 1950. A person may be registered under this sub-subparagraph without examination.

(B) The requirement of this paragraph of residence or practice of engineering in the District of Columbia for 1 year immediately preceding the date



of application shall not be applied to applicants who were on active duty in the armed forces of the United States during such year, and who entered on such duty after October 16, 1940, but any such applicant for license under this paragraph must have been a resident or engaged in the practice of engineering in the District of Columbia for at least 1 year prior to the effective date of this chapter;

(3) To provide for and to regulate the certification and to certify as an engineer-in-training any person of good character and repute who is a citizen of the United States, at least 18 years of age or has graduated from an institution, and who speaks and writes the English language, if such person:

(A) Is a graduate in engineering from an institution having a course in engineering of 4 or more years and who successfully passes a written, or written and oral, examination prescribed by the Board for the purpose of testing the applicant's knowledge of fundamental engineering subjects, including mathematics and the physical sciences. A person may be certified as an engineer-in-training under this subparagraph without a written, or written and oral, examination; provided, however, that the application therefor is filed with the Board within 1 year after September 19, 1950; or

(B) Has completed an approved secondary-school course of study or equivalent, and has had 8 or more years of combined education, training, and experience in engineering, of a grade and character satisfactory to the Board, and who successfully passes a written, or written and oral, examination prescribed by the Board for the purpose of testing the applicant's knowledge of fundamental engineering subjects, including mathematics and the physical sciences;

(4) To register as a professional engineer any person who is not a citizen of the United States, who is of good character and repute, at least 25 years of age, and speaks and writes the English language, if such person submits evidence, of a grade and character satisfactory to the Board, that he is an engineer of established and recognized standing in the profession of engineering in his own country, and who submits certification as to character and qualifications from at least 2 professional engineers of the District of Columbia. Such registration shall entitle the holder to engage in the practice of engineering only for the duration of and in connection with a specific project for which it was granted, and shall be subject to annual renewal and to suspension or revocation as registration granted as otherwise provided in this chapter. Engineers to whom such temporary registration has been granted shall be separately listed in the roster;

(5) To require all candidates for registration as professional engineers to file with the Secretary-Treasurer of the Board a written application on a prescribed form and accompanied by the required fee. Such application shall contain statements made under oath, showing the applicant's education, detailed summary of his experience in engineering work, and the general field or fields of engineering in which he has his principal activity, and shall contain not less than 5 references, of whom 3 or more shall be engineers having personal knowledge of his engineering training and experience;

(6) To investigate the allegations contained in any application for registration as a professional engineer in order to determine the truth of such allegations, and to determine the competency of any person applying for a registration to assume responsible charge of the work involved in the practice of engineering, such competency to be determined by the grade and character of the engineering work actually performed. Any person having the necessary qualifications prescribed in this chapter to entitle him to registration or certification shall be eligible therefor, although he may not be practicing his profession at the time of making his application. Evaluation of experience in engineering shall be based upon the applicant's knowledge of the fundamental engineering subjects, which shall be broad in scope and of a nature to develop and mature the applicant's engineering knowledge and judgment. In considering the qualifications of an applicant who has graduated in engineering from an approved institution, each year, but not exceeding 2 years, of successful postgraduate study in engineering, and each scholastic year, in excess of 4, of an approved 5- or 6-year engineering curriculum, and each year of teaching engineering subjects, in an approved institution, may be considered as equivalent to 1 year of experience in engineering. In considering the qualifications of an applicant who is an undergraduate in engineering, or who has graduated in a curriculum other than engineering, from an approved institution, each equivalent year of approved engineering education, as determined by evaluation by the Board of the educational records submitted, may be considered as equivalent to 2 years of combined education and experience in engineering. Experience in engineering gained under the supervision of a professional engineer or similarly qualified engineer, and experience in engineering gained subsequent to the attaining of an equivalent to the minimum requirements for certification as an engineer-in-training, of a grade and character satisfactory to the Board, shall be given full credit. In any case when the evidence presented in the application does not appear to the Board conclusive nor warranting the issuance of a certificate of registration or a certificate as engineer-in-training without examination, the applicant may be required to present further evidence for the consideration of the Board, and may also be required to pass an oral or written examination, or both, as the Board may determine. Whenever the Board determines otherwise than by examination that an applicant has not produced sufficient evidence to show that he is competent to assume responsible charge of the work involved in the practice of engineering, and shall refuse to examine or to register such applicant, it shall set forth in writing its findings and the reasons for its conclusions, and furnish a copy thereof to the applicant;

(7) To prescribe the scope, manner, time, and place for the examination of applicants for registration as professional engineers, to provide for the conduct of and to conduct such examinations, and to make written reports of such examinations. The prescribed examinations shall be written, or written and oral, and designed to permit an applicant for registration as a professional engineer to take the examination in 2 stages. The 1st stage of the examination shall be designed to test the applicant's knowledge of fundamental engineering subjects, including mathematics, physical and applied sciences, prop-



erties of materials, and the principles of engineering design. Satisfactory passing of this portion of the examination shall constitute a credit for the life of the applicant or until he is registered as a professional engineer. The 2nd stage of the examination shall be designed to test the applicant's ability to apply the principles of engineering to the actual practice of engineering in the field of engineering in which he has indicated his principal activity. An applicant failing to pass an examination may apply for reexamination at the expiration of 6 months and will be reexamined upon payment of the prescribed fee;

(8) To issue a certificate of registration and a pocket registration card to each professional engineer granted registration under the provisions of this chapter. The certificate of registration shall authorize the registrant to practice as a professional engineer, show the full name of the registrant, have a serial number, and be signed by the members of the Board under the seal of the Board. The pocket registration card issued with the certificate shall show the full name and registration number of the registrant, state that the person named therein has been granted registration to practice as a professional engineer for the period ending on the 31st day of October in the 2nd year of the then current biennial registration renewal period, and be signed by the Chairman and Secretary-Treasurer of the Board; to provide for and regulate the renewal of registration of professional engineers registered under this chapter. On or before the 1st day of August 1952, and biennially thereafter, the Secretary-Treasurer of the Board shall mail to every professional engineer registered under this chapter a blank application for biennial renewal of registration, addressing such application to the last-known post-office address. Upon receipt of such application blank, a registrant shall execute and return the application for his biennial registration renewal card to the Board together with the biennial registration renewal fee of \$2. Upon receipt of such application and renewal fee the Board shall issue a pocket registration renewal card which shall show the full name and registration number of the registrant, be signed by the Chairman and Secretary-Treasurer of the Board, and state that the person named therein has been granted registration to practice as a professional engineer for the period beginning November 1st in the year of issue and expiring on the 31st day of October in the 2nd year following. Application shall be made biennially on or before the 1st day of November and if not so made an additional fee of \$1 for each 30 days delay beyond the 1st day of November, and up to the 1st day of March following shall be added to the current biennial registration renewal fee to be paid upon renewal; to issue a duplicate certificate of registration to replace a certificate lost, destroyed, or mutilated, subject to the rules of the Board, and upon payment of the prescribed fee. The issuance of a certificate of registration by the Board shall be presumptive evidence in all courts and places that the person named therein is entitled to all the rights and privileges of a registered professional engineer while said certificate remains unsuspended, unrevoked, or unexpired;

(9) To issue a special certificate of registration and pocket registration card to every noncitizen professional engineer granted registration under the provisions of this chapter. The special certificate of registration shall autho-



rize the registrant to practice as a professional engineer in connection with a specific project, show the full name of the registrant, have a registration number, and be signed by the members of the Board under the seal of the Board. The special pocket registration card issued with such certificate shall show the full name and registration number of the registrant, state that the person named therein has been granted temporary registration to practice as a professional engineer, state the specific project in connection with which the special registration is granted, the period for which it is granted, not to exceed 1 year from the date of issue, and be signed by the Chairman and Secretary-Treasurer of the Board. Temporary registration may be renewed at the discretion of the Board for periods not in excess of 1 year upon application therefor and payment of the annual renewal fee;

(10) To prescribe and to issue a certificate, attested by its seal and signed by the members of the Board, to any applicant who in the opinion of the Board has satisfactorily met all the requirements of this chapter for certification as an engineer-in-training;

(11) To keep a roster of all professional engineers registered under this chapter, showing the registrant's name, place of business or employment, registration number, and the general field or fields of engineering in which registrant qualified to practice, and a roster of engineers-in-training certified under this chapter. These rosters, together with other information deemed to be of interest to the engineering profession, shall be published in booklet form by the Board on the 1st day of March of each even year, beginning with 1952, or as soon thereafter as practicable. The Board shall also, upon the 1st day of March of each odd year, beginning with 1953, or as soon thereafter as practicable, publish a supplemental roster of all registered professional engineers and certified engineers-in-training. Such published rosters shall contain at the beginning thereof the words: "Each professional engineer receiving this roster is requested to report to the Board the names and addresses of any persons known to be engaged in the practice of engineering in the District of Columbia whose names do not appear in this roster. The names of persons giving such information shall not be divulged." Copies of these rosters shall be mailed or otherwise sent to each registered professional engineer and engineer-in-training and be furnished to other persons upon request;

(12) To adopt and have an official seal, and to keep minutes and records of all its transactions and proceedings, and a complete record of the credentials of each applicant and registrant. A transcript of an entry in such minutes and records, certified by the Secretary-Treasurer under the seal of the Board, shall be prima facie evidence of the original entry in such minutes and records;

(13) To become a member of the National Council of State Boards of Engineering Examiners and to pay such dues as said Council shall establish, and to send a delegate to the annual meeting of said Council and to defray his reasonable and necessary expenses;

(14) To adopt, amend, rescind, promulgate, and enforce such administrative rules and regulations not inconsistent with this chapter, as are deemed necessary and proper by the Board to carry into effect the powers conferred by

this chapter. To employ such clerical or other assistants as are necessary for the proper performance of its duties. The regular annual employees of the Board shall, for the purpose of laws relating to compensation, classification, retirement, and leave, be employees of the District of Columbia;

(15) To enforce the provisions of this chapter, to investigate for unauthorized and unlawful practice, to employ such persons as it may deem necessary to assist in the investigations and prosecutions incident to enforcement, to require the attendance of witnesses and the production of books and papers, and to require such witnesses to testify as to any and all matters within its jurisdiction. The Chairman and Secretary-Treasurer of the Board shall have power to issue subpoenas, and each shall have authority to administer oaths. Upon the failure of any person to attend as a witness, when duly subpoenaed, or to produce documents when duly directed by said Board, the Board shall have power to refer the said matter to any justice of the Superior Court of the District of Columbia, who may order the attendance of such witness, or the production of such documents, or require the said witness to testify, as the case may be, and upon the failure of the witness to attend, to testify, or to produce such documents, as the case may be, such witness may be punished for contempt of court as for failure to obey a subpoena issued or to testify in a case pending before said Court. Witnesses who have been subpoenaed by the Board, and who testify if called upon, shall be paid the same fees that are paid witnesses in the Superior Court of the District of Columbia;

(16) To refuse to issue a certificate to any person, or to suspend or revoke the certificate of registration of any professional engineer or the certification of any engineer-in-training issued hereunder if such person:

(A) Has been convicted of a felony;

(B) Has been found guilty of deceit, misrepresentation, violation of contract, fraud, or gross incompetency, in his practice;

(C) Has been found guilty of fraud or deceit in obtaining his registration or certification;

(D) Has aided or abetted any person in the violation of any provision of this chapter;

(E) Has violated any provision of this chapter; or

(F) Has been declared insane by a court of competent jurisdiction and has not thereafter been lawfully declared sane; and

(17) To reconsider the application of any person whose application has been refused or to reissue a certificate of registration to any professional engineer or a certification to any engineer-in-training whose certificate has been revoked for reasons the Board deems sufficient, upon payment of the prescribed fee for such reissuance. (Sept. 19, 1950, 64 Stat. 856, ch. 953, § 8; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(c)(9)(A); 1973 Ed., § 2-1808; July 22, 1976, D.C. Law 1-75, § 3(i), 23 DCR 1178; Mar. 3, 1979, D.C. Law 2-139, § 3205(e), 25 DCR 5740.)

**Cross references.** — As to effective date of D.C. Law 2-139, see § 1-637.1.

**Section references.** — This section is referred to in §§ 1-349, 1-637.1 and 2-2309.

**Legislative history of Law 1-75.** — Law 1-75, the "District of Columbia Age of Majority Act of 1976," was introduced in Council and assigned Bill No. 1-252, which was referred to



the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on April 6, 1976, and April 20, 1976, respectively. Signed by the Mayor on May 14, 1976, it was assigned Act No. 1-116 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 2-139.** — Law 2-139, the "District of Columbia Government Comprehensive Merit Personnel Act of 1978," was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

**References in text.** — The phrase "effective date of this chapter," in paragraph (2)(B), refers to the effective date of the Act of September 19, 1950, and § 19 of that Act provided that the Act would take effect upon the expiration of the ninetieth day after September 19, 1950.

**Board of Registration for Professional Engineers abolished.** — See note to § 2-2305.

**Statutory requirements for professional engineers can be met by natural persons only,** and a corporation cannot be licensed as professional engineer. *Potomac Eng'rs, Inc. v. Walser*, 127 F. Supp. 41 (D.D.C. 1954), *aff'd*, 223 F.2d 356 (D.C. Cir. 1955).

**Registration without examination.** — Where an engineer sought to be registered without examination, on the strength of his established professional standing, Department of Consumer and Regulatory Affairs could base its ruling that petitioner was not engineer of

established and recognized standing upon petitioner's lack of specific accomplishments, activities, and honors, and could hold that engineer did not demonstrate that he had been in responsible charge of important engineering work for five years. *Becker v. District of Columbia Dep't of Consumer & Regulatory Affairs*, App. D.C., 518 A.2d 93 (1986).

**Abuse of discretion in actions for declaratory judgment and injunction.** — Where District officials had allegedly threatened criminal prosecution for the manner of use of the word "engineers" in a corporate name and for business in violation of this chapter, and the persons so threatened sought declaratory judgment that the use of such name was legal and injunction against criminal prosecution, the District Court did not abuse its discretion in dismissing 1 action and in granting summary judgment for the defendant officials in another. *T.V. Eng'rs., Inc. v. Bogan*, 274 F.2d 93 (D.C. Cir. 1959).

**Order requiring supervision of plans by professional engineer held invalid.** — An Order requiring that the application for any proposed electrical installation in which current carrying capacity exceeds 200 amperes or electrical potential exceeds 240 volts shall be accompanied by plans and computations prepared and signed by a professional electrical engineer bears no relationship to the factors of public health, safety, or general welfare, results in discrimination against the electrical trade or business and inevitably increases cost to the consuming public for no lawful reason, and such order is illogical, unreasonable, arbitrary, and capricious. *Electrical Contractors Ass'n v. McLaughlin*, 153 F. Supp. 653 (D.D.C. 1957).

**Cited in** *United States v. Lima*, App. D.C., 424 A.2d 113 (1980).

## § 2-2309. Same — Complaints; hearings; appeals.

(a) The Board may upon its own motion, and shall upon the sworn complaint in writing of any person setting forth charges which would constitute grounds for refusal, suspension, or revocation of a certificate, as set forth in § 2-2308(16), investigate the acts of any person holding or claiming to hold a certificate. All charges, unless dismissed by the Board as unfounded or trivial, shall be heard by the Board within 3 months after the date on which they shall have been filed.

(b) The Board shall, at least 30 days prior to the date set for the hearing, notify the accused in writing of any charges made, and shall afford him an opportunity to be heard in person or by counsel in reference thereto. Such notice may be served by its delivery personally to the accused licensee by the United States Marshal in the manner prescribed for service of original process in the Superior Court of the District of Columbia, or by mailing it by regis-



tered mail or by certified mail with return receipt demanded, to the place of business last theretofore specified by the accused in his last notification to the Board. At the time and place fixed in the notice, the Board shall proceed to hearing of the charges and both the accused and the complainant shall be accorded ample opportunity to present, in person or by counsel, such testimony, evidence, and argument as may be pertinent to the charges or to any defense thereto. The Board may continue such hearing from time to time and shall give notice in writing to all parties in interest of the date and hour to which the hearing has been continued, and the place at which it is to be held.

(c) The Board shall preserve a complete record of all proceedings at the hearing of any case wherein a certificate is refused, revoked, or suspended. The notice of hearing, complaint, and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, and the orders of the Board shall be the record of such proceedings. The Board shall furnish a transcript of such record at cost to any person interested in such hearing.

(d) If, after completion of the hearing, the Board shall be of the opinion that the accused is guilty of the charges, or any of them, the Board shall issue an order refusing, suspending, or revoking the certificate. Such order shall be served upon the accused person either personally or by mailing it by registered mail to the address specified by the accused person in his last notification to the Board.

(e) Any person aggrieved by the action of the Board may appeal as provided in §§ 1-1501 to 1-1510. (Sept. 19, 1950, 64 Stat. 862, ch. 953, § 9; June 11, 1960, 74 Stat. 202, Pub. L. 86-507, § 1(41); July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, §§ 155(c)(9)(B), 164(n); 1973 Ed., § 2-1809.)

**Cross references.** — As to administrative procedure, see Chapter 15 of Title 1. As to use of certified mail receipts as prima facie evidence of delivery, see § 14-506.

**Section references.** — This section is referred to in § 1-349.

**Board of Registration for Professional Engineers abolished.** — See note to § 2-2305.

**Rehearing after appeal of application**

**denial.** — Where District Court, on applicant's appeal from denial of his application for registration, remanded case for rehearing, remand should have been without qualification so that Board might, after hearing additional evidence, make initial decision on enlarged factual situation. *Walser v. Merle*, 228 F.2d 465 (D.C. Cir. 1956).

## § 2-2310. Exemptions from chapter.

Nothing in this chapter shall be construed to affect or prevent the following:

(1) The practice of engineering by any person who, within 1 year after September 19, 1950, has filed with the Board an application for registration under this chapter. This exemption shall continue only for such time as the Board may require for consideration of said application;

(2) The practice of engineering for not exceeding 30 days in the aggregate in 1 calendar year by a nonresident not having a place of business in the District of Columbia, if such person is licensed or registered to engage in the practice of engineering in a state or territory in which the requirements and qualifications for obtaining a license or registration are reasonably equivalent to those specified in this chapter;

(3) The practice of engineering for more than 30 days by a nonresident not having a place of business in the District of Columbia, or by a person who has recently become a resident of or has recently entered the practice of engineering in the District of Columbia, and who has filed with the Board an application for registration, if such person is registered or licensed to engage in the practice of engineering in a state or territory in which the requirements and qualifications for obtaining a license or registration are reasonably equivalent to those specified in this chapter. Such practice shall be permitted only for such time as the Board requires for the consideration of the application;

(4) The performance of engineering work by any person who acts under the supervision of a professional engineer, or by an employee of a person lawfully engaged in the practice of engineering, and who, in either event, does not assume responsible charge of design or supervision;

(5) The practice of engineering as a consultant, officer, or employee of the government of the United States or the government of the District of Columbia while engaged solely in such practice for said governments;

(6) The practice of any other legally recognized profession;

(7) The practice of engineering exclusively as an officer or employee of a public utility corporation by rendering to such corporation such service in connection with its facilities and property which are subject to supervision with respect to safety and security thereof by the Public Service Commission of the District of Columbia and so long as such person is thus actually and exclusively employed and no longer; provided, however, that each such public utility corporation shall employ at least 1 registered professional engineer who shall be in responsible charge of such engineering work;

(8) The practice of architecture by a person authorized to use the title of architect or registered architect under the provisions of Chapter 2 of this title, and his doing such engineering work as is incidental to his architectural work;

(9) The construction or alteration of a building that does not cover over 1,000 square feet of ground area and does not have a height of over 20 feet to the uppermost ceiling, or 2 habitable floors above a basement;

(10) The execution of construction work as a contractor, or the superintendence of such construction work as a foreman or superintendent, or the work performed as a salesman of engineering equipment or apparatus;

(11) The operation or maintenance of boilers, machinery, or equipment when the operators are duly licensed under the provisions of Chapter 24 of this title; or

(12) The usual supervision of construction or installation of equipment within a plant under his immediate supervision by a person ordinarily designated as supervising engineer or chief engineer of power. (Sept. 19, 1950, 64 Stat. 863, ch. 953, § 10; Aug. 30, 1964, 78 Stat. 634, Pub. L. 88-503, § 21; 1973 Ed., § 2-1810.)

**Section references.** — This section is referred to in § 1-349.

**Board of Registration for Professional**

**Engineers abolished.** — See note to § 2-2305.

**Preparation of certain electrical plans**

**not "practice of engineering".** — The preparation by duly licensed master electricians of plans, diagrams, and computations for proposed installations in which carrying capacity will exceed 200 amperes or electrical potential will exceed 240 volts does not constitute "practice of engineering" as contemplated by this chapter, and an order providing that plans and specifications for such electrical installations should be prepared by registered professional electrical engineer was not required under this

chapter. *Electrical Contractors Ass'n v. McLaughlin*, 153 F. Supp. 653 (D.D.C. 1957).

**Burden of proving paragraph (6) exemption.** — A defendant who allegedly violated the registration requirement had the burden of proving that it was within exception for any other legally recognized profession. *T.V. Eng'rs, Inc. v. District of Columbia*, App. D.C., 166 A.2d 920 (1961).

## § 2-2311. Seal of registrant.

(a) Each person registered under this chapter may obtain a seal of a design authorized by the Board which shall bear the registrant's name and registration number, the legend "Registered Professional Engineer," and such other words or figures as the Board may deem necessary. Such seal, or a facsimile imprint of same, shall be stamped on all plans, specifications, and reports by the registrant responsible for the accuracy and adequacy of such plans, specifications, and reports, when filed with public authorities.

(b) It shall be unlawful for a registered engineer to affix or permit his seal to be affixed to any plans, specifications, or drawings for which he does not assume full responsibility for the adequacy and accuracy thereof.

(c) It shall be unlawful for any person to use such seal during the period the registration of the holder thereof is expired, suspended, or revoked, or to use a seal of any design not approved by the Board. (Sept. 19, 1950, 64 Stat. 864, ch. 953, § 11; 1973 Ed., § 2-1811.)

**Section references.** — This section is referred to in § 1-349.

**Board of Registration for Professional Engineers abolished.** — See note to § 2-2305.

**Cited in** *Bell v. Jones*, App. D.C., 523 A.2d 982 (1986); *Harbor Ins. Co. v. Omni Constr., Inc.*, 912 F.2d 1520 (D.C. Cir. 1990).

## § 2-2312. Display of certificate of registration.

Whoever engages in the practice of engineering shall keep displayed in a conspicuous place in his established place of business the certificate of registration granted him under this chapter, and evidence of current renewal. (Sept. 19, 1950, 64 Stat. 864, ch. 953, § 12; 1973 Ed., § 2-1812.)

**Section references.** — This section is referred to in § 1-349.

## § 2-2313. Fees; Professional Engineers' Fund; expenses of Board; audit.

(a) Each application for registration as a professional engineer shall be accompanied by the appropriate prescribed application fee and the registration fee. A person desiring certification as an engineer-in-training shall pay the prescribed application fee for such certification with his application and



shall pay the additional application fee and the registration fee upon filing his application for registration as a professional engineer.

(b) Should the Board deny the issuance of a certificate of registration to any applicant, the registration fee deposited with the application shall be refunded.

(c) The amount of the fees prescribed in this chapter is that fixed by the following schedule:

(1) The application fee for professional engineer with 1st and 2nd-stage examination is \$20;

(2) The application fee for professional engineer without examination is \$10;

(3) The application fee for engineer-in-training with examination is \$7.50;

(4) The application fee for engineer-in-training without examination is \$5;

(5) The application fee for professional engineer with 2nd-stage examination is \$12.50;

(6) The fee for reexamination shall be determined by the Board not to exceed \$10;

(7) The registration fee for professional engineer is \$5;

(8) The biennial registration renewal fee for professional engineer is \$6;

(9) The fee for reissuance of a revoked certificate of engineer-in-training is \$7.50;

(10) The fee for reissuance of a revoked registration certificate is \$20;

(11) The fee for issuance of a duplicate certificate of registration is \$5; and

(12) The penalty for delinquency is \$1 for each month after the date upon which the biennial renewal fee became due; provided, however, that the total shall not exceed \$4.

(d) The Secretary-Treasurer of the Board shall receive and account for all money derived from the provisions of this chapter and shall keep such money in a separate fund to be known as "Professional Engineers' Fund," such Fund to be disbursed only by the Secretary-Treasurer upon itemized vouchers approved by the Chairman and attested by the Secretary-Treasurer of the Board. The Secretary-Treasurer shall furnish bond for the faithful discharge of his duties, in such form and amount as the Council of the District of Columbia shall require. The premium on such bond shall be regarded as a proper and necessary expense of the Board. The Secretary-Treasurer of the Board shall receive such salary as the Mayor shall determine, in addition to the compensation provided for in § 2-2306. The Board may make expenditures from this Fund for any purpose which, in the opinion of the Board, is reasonably necessary for the proper performance of its duties under this chapter; provided, however, that such expenditures shall in no event exceed the total of receipts. It shall be the duty of the Office of the Inspector General of the District of Columbia to audit annually the accounts of the Board and make a report thereof to the Mayor. For the purpose of performance of such duty the Office of the Inspector General shall have free access to the books of account,

records, and papers of the Board. (Sept. 19, 1950, 64 Stat. 864, ch. 953, § 13; 1973 Ed., § 2-1813.)

**Cross references.** — As to Mayor's authority to fix fees, see § 1-346. As to Mayor's authority to increase or decrease fees, see § 1-347.

**Section references.** — This section is referred to in §§ 1-346 and 1-349.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(69) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**Board of Registration for Professional Engineers abolished.** — See note to § 2-2305.

**Office of Auditor abolished.** — The Office of the Auditor of the District of Columbia was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. All functions of the Office of the Auditor, including the functions of all officers, employees, and subordinate agencies were transferred to the Director, Department of General Administration by Reorganization Order No. 3

of the Board of Commissioners, dated August 28, 1952. The functions of auditing all moneys paid to and collected by the District Unemployment Board as provided in subsection (a) of this section was transferred from the Auditor to the Internal Audit Officer, Department of General Administration by Reorganization Order No. 19. The function of the Auditor of the District concerning the prior audit of refunds was transferred from the Auditor to the Accounting Officer, Finance Office, Department of General Administration by Reorganization Order No. 20, dated November 10, 1952. Reorganization Order No. 20 was superseded by Organization Order No. 121, dated December 12, 1957. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Reorganization Order No. 19 and Organization Order No. 121 were revoked and replaced by Organization Order No. 3, dated December 13, 1967. Parts IVB and IVC of the latter Order established within the newly created Department of General Administration, an Internal Audit Office and a Finance Office and prescribed the functions thereof. These functions were subsequently transferred to the Director of the Department of Finance and Revenue by paragraph 4 of Commissioner's Order No. 69-96, dated March 7, 1969. Part IVB of Organization Order No. 3 and that portion of paragraph 4 of Commissioner's Order No. 69-96 pertaining to a transfer of audit functions to the Department of Finance and Revenue were revoked by Organization Order No. 33, dated July 14, 1972. The latter Order established an Office of Municipal Audit and Inspection and prescribed the functions thereof. The Office of Municipal Audit and Inspection was replaced by Mayor's Order No. 79-7, dated January 2, 1979, which Order established the Office of the Inspector General of the District of Columbia.

## § 2-2314. Unlawful acts.

Whoever shall engage or offer to engage in the practice of engineering without being registered, or exempted, as provided in this chapter, or by verbal claim, sign, letterhead, card, or in any other way represent himself to be a professional engineer or through the use of any title including the word "engineer" or words of like import, or any other title, imply that he is a professional engineer without being registered as provided in this chapter, or shall present or attempt to use as his own the registration certificate of another, or shall give any false or forged evidence of any kind to the Board, or to any member thereof, in order to obtain registration as a professional engineer,



or shall use any suspended or revoked registration, or shall otherwise violate the laws relating to the practice of engineering shall be guilty of a misdemeanor and shall be punishable by a fine of not more than \$500 or imprisonment for not more than 1 year, or both. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this chapter shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (Sept. 19, 1950, 64 Stat. 865, ch. 953, § 14; 1973 Ed., § 2-1814; Oct. 5, 1985, D.C. Law 6-42, § 442, 32 DCR 4450.)

**Section references.** — This section is referred to in § 1-349.

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Board of Registration for Professional Engineers abolished.** — See note to § 2-2305.

**Corporation could be convicted under this section,** though only a natural person may be registered under this subchapter. *T.V.*

*Eng'rs, Inc. v. District of Columbia*, App. D.C., 166 A.2d 920 (1961).

**Violation of section a question of fact.** — The question of whether use of the name "*T.V. Engineers Inc.*," by a corporation which employed no professional engineers violated this section was factual determination for trial court. *T.V. Eng'rs, Inc. v. District of Columbia*, App. D.C., 166 A.2d 920 (1961).

**Burden of proving exemption from operation of chapter.** — The fact that paragraph (6) of § 2-2310 exempts from this chapter the practice of any other legally recognized profession did not require that an information allege and that the prosecution prove that the defendant was not within exception, and defendant had burden of proving that it was within exception. *T.V. Eng'rs, Inc. v. District of Columbia*, App. D.C., 166 A.2d 920 (1961).

## § 2-2315. Prosecutions; legal services to Board; investigations; injunctions.

(a) All violations of laws relating to the practice of engineering in the District of Columbia shall be prosecuted in the Superior Court of the District of Columbia by the Corporation Counsel. The Corporation Counsel shall render such other legal services as may from time to time be required by the Board.

(b) The Chief of Police of the Metropolitan Police Department shall detail such members of his force as may be necessary to assist the Board in the investigations and prosecutions incident to the enforcement of this chapter.

(c) The Corporation Counsel is hereby authorized to apply for relief by injunction to restrain a person from the commission of any act which is prohibited by this chapter. In such proceedings it shall not be necessary for the Corporation Counsel to allege or prove either that an adequate remedy at law does not exist, or that substantial and irreparable damage would result, from the continued violation thereof. (Sept. 19, 1950, 64 Stat. 866, ch. 953, § 15; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 2-1815.)



**Section references.** — This section is referred to in § 1-349.

**Board of Registration for Professional Engineers abolished.** — See note to § 2-2305.

**Office of Major and Superintendent of Metropolitan Police abolished.** — The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police

Department was designated "Deputy Chief of Police, Executive Officer"; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated "Deputy Chief of Police, Chief of Detectives"; and each other Assistant Superintendent of the Metropolitan Police was designated "Deputy Chief of Police" by Reorganization Order No. 7 dated September 15, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

## § 2-2316. Annual report.

The Board shall submit an annual report to the Mayor on the 1st Monday in August, containing a statement of moneys received and disbursed and a summary of its official acts during the next preceding fiscal year, and recommendations for such further legislation relating to the practice of engineering as may be necessary in the public interest. (Sept. 19, 1950, 64 Stat. 866, ch. 953, § 16; 1973 Ed., § 2-1816.)

**Section references.** — This section is referred to in § 1-349.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and

Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**Board of Registration for Professional Engineers abolished.** — See note to § 2-2305.

## § 2-2317. Severability.

If any section or sections, clause or clauses, of this chapter, or any regulations promulgated thereunder, be declared unconstitutional or invalid, that shall not invalidate any other sections or clauses of this chapter, or any other regulations promulgated thereunder. (Sept. 19, 1950, 64 Stat. 866, ch. 953, § 17; 1973 Ed., § 2-1817.)

**Section references.** — This section is referred to in § 1-349.

## § 2-2318. Conflicting laws and regulations repealed.

All laws or parts of laws and regulations promulgated thereunder in conflict

with the provisions of this chapter shall be, and the same are hereby, repealed. (Sept. 19, 1950, 64 Stat. 866, ch. 953, § 18; 1973 Ed., § 2-1818.)

**Section references.** — This section is referred to in § 1-349.

## CHAPTER 24. STEAM AND OTHER OPERATING ENGINEERS.

Sec.

2-2401. License required.

2-2402. Board of Examiners.

2-2403. Qualification of applicants; application.

2-2404. License fee.

2-2405. Revocation of license for intoxication.

Sec.

2-2406. Employment of unlicensed person; exemption.

2-2407. Exemptions from chapter.

2-2408. Imposition of civil fines, penalties, and fees; adjudications.

## § 2-2401. License required.

It shall be unlawful for any person to act as a steam or other operating engineer in the District of Columbia who shall not have been regularly licensed to do so by the Mayor thereof. (Feb. 28, 1887, 24 Stat. 427, ch. 272, § 1, Mar. 4, 1925, 43 Stat. 1284, ch. 545; 1973 Ed., § 2-1501.)

**Cross references.** — As to Council's authority to regulate, modify, or eliminate license requirements, see § 47-2842. As to Council's authority to promulgate regulations, see § 47-2844.

**Section references.** — This section is referred to in §§ 1-349, 1-1016 and 2-2407.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all

of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**Cited in** *Henderson v. Charles E. Smith Mgt., Inc.*, App. D.C., 567 A.2d 59 (1989).

## § 2-2402. Board of Examiners.

Omitted.

**Omission of text.** — The provisions of former § 2-2402 have been omitted as obsolete, the Board referred to herein having been abolished.

**Cross references.** — As to rules and regulations, see § 1-319. As to honorariums to various board members and commissioners, see § 1-348. As to compensation for members of boards and commissions, see § 1-612.8. As to appointment of Boiler Inspector, see § 1-1003.

**Section references.** — This section is referred to in §§ 1-349, 1-1016, 1-1462 and 2-2407.

**Board of Examiners abolished.** — The Board of Examiners of Steam and Other Operating Engineers was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. The functions

were delegated to the Department of Occupations and Professions by Reorganization Order No. 59, dated June 30, 1953. Section 402(62) of Reorganization Plan No. 3 of 1967 transferred the functions of the Board of Commissioners under this section with respect to providing rules and regulations relating to examinations for steam and other operating engineers and prescribing tests to which engines and steam boilers shall be subjected to the District of Columbia Council, subject to the right of the Commissioner as provided by § 406 of the Plan. Section 401 of the Plan transferred all other functions of the Board of Commissioners under this section to the Commissioner of the District of Columbia. The functions delegated to the Department of Occupations and Professions were subsequently transferred to the Director of the Department of Economic Develop-



ment by Commissioner's Order No. 69-96, dated March 7, 1969. The Department of Economic Development was replaced by Mayor's Order 78-42, dated February 17, 1978, which Order established the Department of Licenses, Investigation and Inspection.

The functions of the Department of Licenses,

Investigations and Inspections were transferred to the Director of the Department of Consumer and Regulatory Affairs by Reorganization Plan No. 1 of 1983, effective March 31, 1983.

**Regulations.** — Governing regulations are published at 17 DCMR 400 et seq.

### § 2-2403. Qualification of applicants; application.

Applicants for license as steam or other operating engineers must be 18 years of age and of temperate habits; must make application in writing, to which application must be attached a certificate as to character and moral habits signed by at least 3 citizens of the District of Columbia, themselves of moral standing. (Feb. 28, 1887, 24 Stat. 427, ch. 272, § 3; Mar. 4, 1925, 43 Stat. 1284, ch. 545; 1973 Ed., § 2-1503; July 22, 1976, D.C. Law 1-75, § 3(h), 23 DCR 1178.)

**Cross references.** — As to Mayor's authority to fix fees, see § 1-346. As to Mayor's authority to increase or decrease fees, see § 1-347. As to refund of fees when license refused, see § 47-1318.

**Section references.** — This section is referred to in §§ 1-349, 1-1016, and 2-2407.

**Legislative history of Law 1-75.** — Law 1-75, the "District of Columbia Age of Majority Act of 1976," was introduced in Council and

assigned Bill No. 1-252, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on April 6, 1976, and April 20, 1976, respectively. Signed by the Mayor on May 14, 1976, it was assigned Act No. 1-116 and transmitted to both Houses of Congress for its review.

### § 2-2404. License fee.

The fee for a license as steam or other operating engineer shall be \$3. (Feb. 28, 1887, 24 Stat. 427, ch. 272, § 4; Mar. 4, 1925, 43 Stat. 1284, ch. 545; 1973 Ed., § 2-1504.)

**Section references.** — This section is referred to in §§ 1-346, 1-349, 1-1016 and 2-2407.

### § 2-2405. Revocation of license for intoxication.

Any person employed as a licensed steam or other operating engineer in the District of Columbia who is found under the influence of intoxicating liquor while on duty shall, for the 1st offense, have his license revoked for 6 months; for the 2nd offense, 12 months; and for the 3rd offense, shall have his license revoked and be barred from following the occupation of licensed steam or other operating engineer in the District of Columbia for the period of 5 years. (Feb. 28, 1887, 24 Stat. 427, ch. 272, § 5; Mar. 4, 1925, 43 Stat. 1284, ch. 545; 1973 Ed., § 2-1505.)

**Cross references.** — As to administrative procedure, see Chapter 15 of Title 1. As to judicial review, see § 11-722.

**Section references.** — This section is referred to in §§ 1-349, 1-1016 and 2-2407.

## § 2-2406. Employment of unlicensed person; exemption.

Any owner or lessee of any engine or steam boiler, or the secretary of any corporation who shall employ a steam or other operating engineer as such who has not been regularly licensed to act as such, or any person operating without a license or in violation of the provisions of this chapter, shall, on conviction thereof by the Superior Court of the District of Columbia, be fined \$40; provided, that boilers used for steamheating, where the water returns to the boiler by gravity without the use of a pump and injector or inspirator, shall be exempt from the provisions of this section. (Feb. 28, 1887, 24 Stat. 427, ch. 272, § 6; Mar. 4, 1925, 43 Stat. 1284, ch. 545; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); 1973 Ed., § 2-1506.)

**Section references.** — This section is referred to in §§ 1-349, 1-1016 and 2-2407.

## § 2-2407. Exemptions from chapter.

Sections 2-2401 to 2-2406 shall not apply to engineers employed by the United States government or licensed by the laws of any state having reciprocity with the District of Columbia. (Feb. 28, 1887, 24 Stat. 427, ch. 272, § 7; Mar. 4, 1925, 43 Stat. 1284, ch. 545; July 31, 1939, 53 Stat. 1143, ch. 398; 1973 Ed., § 2-1507.)

**Section references.** — This section is referred to in §§ 1-349 and 1-1016.

omitted at the direction of the District of Columbia Codification Counsel.

**Editor's notes.** — Section 2-2402 has been

## § 2-2408. Imposition of civil fines, penalties, and fees; adjudications.

Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules and regulations issued under the authority of this chapter, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this chapter shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (Feb. 28, 1887, ch. 272, § 8, as added Oct. 5, 1985, D.C. Law 6-42, § 482, 32 DCR 4450.)

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The

Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

## CHAPTER 25. LOTTERY AND CHARITABLE GAMES CONTROL BOARD.

Sec.	Sec.
2-2501. Created; appointment; composition; qualifications; vacancies; term of office; compensation.	2-2522. Operation of bingo and raffles.
2-2502. Oaths; financial disclosure statement; voting; subcommittees; quorum.	2-2522.1. Monte Carlo night party.
2-2503. Executive Director and Deputy Director.	2-2523. Licenses to conduct bingo games, raffles, and Monte Carlo night parties.
2-2504. Bonding of employees; fingerprinting.	2-2524. Rules and regulations governing conduct of bingo and raffles.
2-2505. Conflict of interest.	2-2525. Designation of individual responsible for proper utilization of receipts; financial responsibility bond; license fees.
2-2506. Enforcement; rules and regulations.	2-2526. License to supply bingo equipment and supplies.
2-2507. Reports.	2-2527. Suppliers' price list; fees; financial responsibility bonds; maintenance of books and records.
2-2508. Power to administer oaths and take testimony; subpoena power.	2-2528. Persons ineligible for suppliers' license.
2-2509. Record of proceedings.	2-2529. Prohibited suppliers' activities.
2-2510. Divisions.	2-2530. Standards for bingo cards.
2-2511. Budget.	2-2531. License suspension or revocation.
2-2512. Lottery and Charitable Games Fund.	2-2532. Aiding or abetting unauthorized bingo games, raffles, or Monte Carlo night parties; penalties.
2-2513. Operation of lottery.	2-2533. Forged, counterfeit or altered tickets.
2-2514. Operation of daily numbers games.	2-2534. Gambling by minor prohibited.
2-2515. Sale of lottery and daily numbers games tickets by licensed agents; unauthorized sale.	2-2535. Payment of prize by or on behalf of minor.
2-2516. Sales agents' special accounts; reports of receipts and transactions.	2-2536. Competitive bid contracts.
2-2517. Depositories.	2-2537. [Repealed].
2-2518. Unclaimed prizes.	
2-2519. Audit.	
2-2520. Persons ineligible to purchase tickets or shares or receive prizes.	
2-2521. Rules and regulations governing conduct of lottery and daily numbers games.	

### § 2-2501. Created; appointment; composition; qualifications; vacancies; term of office; compensation.

(a) There is hereby created by the District of Columbia the District of Columbia Lottery and Charitable Games Control Board, hereinafter referred to as the Board. The 1st Board shall be appointed as hereinafter specified within 60 days of March 10, 1981. The Board shall consist of 5 members who shall be appointed by the Mayor of the District of Columbia with the consent of the Council of the District of Columbia. Of the members appointed, one shall be designated as Chairperson of the Board by the Mayor of the District of Columbia.

(b) Each member of the Board, at the time of appointment and qualification, shall be a registered voter in the District for at least 5 years preceding appointment and qualification and shall be not less than 21 years of age. In the event of a vacancy on the Board as a consequence of resignation, disability, death, or for other reasons, the Mayor of the District of Columbia shall appoint, with the consent of the Council of the District of Columbia, another person to fill the vacancy.



(c) Of the members of the Board first appointed, 2 shall hold office for 2 years, from 1981 to 1983; 2 for 3 years from that date; and the Chairperson, 4 years from that date. Thereafter, members shall be appointed for terms of 4 years from the 1st day of July in the year of their appointment and until their successors are appointed and have qualified.

(d) Each member of the Board shall receive a stipend of \$15,000 annually, except the Chairperson of the Board, who shall receive an additional stipend of \$3,000 annually for a total of \$18,000. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — Law 3-172, the "Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia," was submitted to the electors of the District of Columbia on November 4, 1980, as Initiative No. 6. The results of the voting, certified by the Board of Elections and Ethics on November 21, 1980, were 104,899 for the Initiative and 59,833 against the Initiative. It was transmitted to both Houses of Congress for its review on January 19, 1981.

**Restriction on advertising, sale, operation, or playing of lotteries, raffles, bingos, etc., on Federal enclave.** — See Pub. L. 97-91, 103 Stat. 1174, December 4, 1981, as amended by Pub. L. 101-168, 103 Stat. 1282, November 21, 1989.

**Appropriations authorized.** — Public Law 103-127, 107 Stat. 1343, the District of Columbia Appropriations Act, 1994, provided for the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriations Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174; Public Law 97-91), as amended, for the purpose of implementing §§ 2-2501 et seq. and 22-1516 et seq., \$8,450,000, to be derived from non-Federal District of Columbia revenues.

**Sources of funding appropriation.** — Public Law 103-127, 107 Stat. 1343, the District of Columbia Appropriations Act, 1994, provided that the District of Columbia shall identify the sources of funding for this appropriation title from the District's own locally-

generated revenues, and provided further, that no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

**Restrictions on use of Federal payment.** — Section 134 of Pub. L. 101-168, the District of Columbia Appropriations Act, 1990, provided that the paragraph under the heading "Lottery and Charitable Games Enterprise Fund" in the District of Columbia Appropriation Act, 1982, approved December 4, 1981 (95 Stat. 1174; Public Law 97-91), is amended by striking the 10th proviso; and in the 11th proviso, by striking "1144, as well as in the Old Georgetown Historic District:" and inserting "1144:"; and the 11th proviso referred to in subsection (a)(2), as amended by such subsection, shall not apply with respect to any activity relating to a lottery, raffle, bingo, or other game of chance sponsored by, and conducted solely for the benefit of, an organization which is described in section 501(c)(3), and exempt from tax under section 501(a), of the Internal Revenue Code of 1986.

**Gambling debts.** — The public policy behind § 16-1701, and similar sections, is to deny use of judicial process to those who would undermine laws meant to prevent gambling by using the courts to collect on gambling debts. That policy cannot be vindicated where the gambling involved, betting on the D.C. Lottery, is legal pursuant to § 2-2501 et seq. *Pearsall v. Alexander*, App. D.C., 572 A.2d 113 (1990).

**Cited in** *Persall v. Alexander*, 115 WLR 1521 (Super. Ct.).

## § 2-2502. Oaths; financial disclosure statement; voting; subcommittees; quorum.

Before entering upon the discharge of the duties of office, each member of the Board shall take oath that he or she will faithfully execute the duties of office according to the laws of the District of Columbia. In addition thereto, each member of the Board shall take and subscribe to an oath or affirmation that he or she is not pecuniarily interested, voluntarily or involuntarily, directly or indirectly, in any firm, partnership, association, organization, or

corporation engaged in any activity related to legalized or illegal gambling. Each member shall file with the Office of the Mayor a financial disclosure statement. The powers of the Board are vested in the Board members. All actions shall be taken and motions and resolutions adopted by the Board at any meeting thereof by the affirmative vote of at least 3 members; provided the Board may establish subcommittees of the Board, composed of 3 members of the Board, to conduct hearings, inquiries, and investigations under this chapter or the regulations promulgated hereunder, and so report its findings and recommendations to the Board; provided, further, however, that no license authorized pursuant to this chapter may be issued or subsequently revoked or suspended unless approved by the affirmative vote of at least 4 Board members upon recommendation by any such subcommittee. Three members of the Board shall constitute a quorum except for matters involving issuance, revocation, or suspension of license authorized pursuant to this chapter. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

### § 2-2503. Executive Director and Deputy Director.

(a) The Board shall appoint an Executive Director and a Deputy Director in accordance with § 1-610.8, each of whom shall devote his or her full time and attention to the duties of their respective offices and shall serve at the pleasure of the Board.

(b) The Board shall determine the compensation for the Executive Director and the Deputy Director, which shall not be less than the basic pay for step 1 of Grade 16 of Schedule 1 of the District Service Schedule, nor shall it exceed the rate of compensation for the Mayor of the District of Columbia pursuant to § 1-612.9.

(c) Prior to performing the duties of their respective offices, the Executive Director and the Deputy Director shall take and subscribe to the same oaths or affirmations as that required by the Board, including an oath or affirmation that he or she is not primarily interested, directly or indirectly, in any firm, partnership, association, organization, or corporation engaged in any activity related to legalized or illegal gambling. The Executive Director and the Deputy Director shall each file an annual financial disclosure statement with the Board.

(d) The Executive Director shall, subject to the direction and supervision of the Board:

- (1) Serve as the Chief Executive Officer of the Board;
- (2) Manage, administer, and coordinate the operation of public gambling and charitable games activities;
- (3) Employ other assistants and employees in accordance with the District of Columbia Government Comprehensive Merit Personnel Act of 1978; and
- (4) Confer, at least once each month, with the Board on the administration and operation of public gambling and charitable games activities.

(e) The Board may delegate to the Executive Director and Deputy Director other duties it deems necessary for the proper and efficient operation of public gambling and charitable activities. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Feb. 28, 1987, D.C. Law 6-205, § 3, 34 DCR 670.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

**Legislative history of Law 6-205.** — Law 6-205, the "Lottery Initiative No. 6 Reform Amendment Act of 1986," was introduced in Council and assigned Bill No. 6-526, which was referred to the Committee on Libraries, Recreation and Charitable Games. The Bill was adopted on first and second readings on November 18, 1986, and December 16, 1986, re-

spectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-265 and transmitted to both Houses of Congress for its review.

**References in text.** — The "District of Columbia Government Comprehensive Merit Personnel Act of 1978," referred to in subsection (d)(3), is D.C. Law 2-139.

## § 2-2504. Bonding of employees; fingerprinting.

The Board may, if it determines it necessary, require all or any of its employees to give bond in such amount as the Board may determine. Every such bond shall be filed in the Office of the District of Columbia Treasurer. The cost of any such bond so given shall be part of the necessary expenses of the Board. Further, all persons employed by the Board shall be fingerprinted before, and as a condition of, employment. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

## § 2-2505. Conflict of interest.

No member of the Board, Chairperson of the Board, Executive Director, or employee of the Board during their tenure of appointment or employment shall: Hold any other elected or appointed position; or have, directly or indirectly, individually or as a member of a partnership, or as an officer, director, or shareholder of a corporation, any interest whatsoever in any lottery or daily numbers game, bingo, raffles enterprise, or Monte Carlo night party or in the ownership or leasing of any equipment, property, or premises used by or for any lottery or daily numbers game, bingo, raffles enterprise, or Monte Carlo night party. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Apr. 11, 1987, D.C. Law 6-220, § 2(b)(1), 34 DCR 900.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

**Legislative history of Law 6-220.** — Law 6-220 was introduced in Council and assigned Bill No. 6-527, which was referred to the Committee on Libraries, Recreation, and Charita-

ble Games. The Bill was adopted on first and second readings on November 18, 1986, and December 16, 1986, respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-276 and transmitted to both Houses of Congress for its review.



**§ 2-2506. Enforcement; rules and regulations.**

(a) The Board shall have the power to enforce provisions of this chapter and shall make all necessary rules and regulations for this purpose and for carrying out, enforcing, and preventing any violation of any provision of this chapter; for investigation of potential and existing licensees of the Board; for inspecting licensed premises or enterprises; for insuring proper, safe, and orderly conduct of licensed premises or enterprises; and for protecting the public against fraud, deceit, deception, or overcharge. The Board shall have power generally to do whatever is reasonably necessary for the carrying out of the intent of this chapter and subchapter II of Chapter 15 of Title 22 and is empowered to call upon other administrative departments and agencies of the City government, as well as the Police Department and the Office of the Corporation Counsel, for such information and assistance as it deems necessary to the performance of its duties.

(b) The Board shall, each year on or before December 31st, publish in convenient pamphlet form all rules and regulations then in effect and shall furnish copies of such pamphlets to every establishment and enterprise engaged in activities authorized pursuant to this chapter and subchapter II of Chapter 15 of Title 22. Amendments, changes, modifications, deletions, or additions to the rules and regulations shall be published and distributed at more frequent intervals as the Board deems necessary. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

**§ 2-2507. Reports.**

The Board shall make an annual report in writing to the Mayor no later than December 31st of each year for the preceding fiscal year. This annual report shall include a statement of the receipts and disbursements of the Board, a summary of its activities, and any additional information and recommendations which the Board may deem of value to the Mayor or which the Mayor may request. The Board shall also make such additional reports as the Mayor may reasonably request. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

**§ 2-2508. Power to administer oaths and take testimony; subpoena power.**

The Board, or any subcommittee thereof authorized to conduct any inquiry, investigation, or hearing pursuant to this chapter, shall have the power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation. At any hearing ordered by the Board, the Board or subcommittee thereof, or such agent having authority by law to issue such

process, may subpoena witnesses and require production of records, papers, and documents relevant to such inquiry. The refusal or failure to provide relevant testimony or produce relevant records, papers, and documents pursuant to the properly issued subpoena of the Board by any applicant before the Board or licensee or agent authorized by the Board, or any officer, director, or employee of such applicant, licensee, or agent, may subject such applicant to summary denial of its application and summary termination of license or authorization of such licensee or agent. If any person disobeys such process, or, having appeared in obedience thereto, refuses to answer any relevant or pertinent questions propounded by the Board or subcommittee thereof, the Board or subcommittee thereof may apply to the Superior Court of the District of Columbia, or to any judge of said Court if the Court is not in session, setting forth such disobedience to process or refusal to answer, and said Court or judge shall cite such person to appear before said Court or judge to answer such questions or to produce such records and papers and, upon refusal to do so, shall take such punitive action, in accord with the appropriate provisions of the District of Columbia Code, as said Court or judge may deem necessary and appropriate. Notwithstanding the imposition of any such punitive action, the Board or subcommittee thereof may proceed with such inquiry or investigation as if the witness had not previously been called to testify. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

## § 2-2509. Record of proceedings.

The Board shall provide books in which shall be kept a true, faithful, and correct record of all of its proceedings, which books shall be open and available to the public. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

## § 2-2510. Divisions.

There shall be established within the Board a City Lottery and Numbers Game Division and a Charitable Games Division. Each Division shall have a Division Chief (hereinafter referred to as "Chief") who shall administer and coordinate operation of authorized activities in the respective Division. Each Chief shall maintain full and complete records of the operation of the Division which shall include, but not be limited to, a statement of revenues and/or license fees; prize disbursements, where applicable; and administrative expenses of the Division. Such records shall be open and available to the public. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Apr. 11, 1987, D.C. Law 6-220, § 2(b)(2), 34 DCR 900.)

Legislative history of Law 3-172. — See note to § 2-2501.

Legislative history of Law 6-220. — See note to § 2-2505.

§ 2-2511. Budget.

The Board shall submit to the Mayor a consolidated budget covering all anticipated income, expenses (including all start-up costs), and capital outlays of the District of Columbia Lottery and Charitable Games Control Board, which budget shall show the net amount for which it requests an appropriation during its 1st year of operation. Said budget shall be submitted on the date that all District government agencies are required to submit their budgets to the Mayor. The Mayor shall transmit to the Council the budget as requested by the Board. The Mayor may also submit such modified budget as he deems appropriate. The net amount for which the Board requests an appropriation shall be the difference between the anticipated expenses for the coming fiscal year, including debt service for capital expenses and a reserve for bad debts, as shown in the consolidated budget, and the anticipated income shown in that budget. Said appropriation shall be in the form of 1 lump-sum amount and shall be transferred to the Board. The Board shall, upon final determination of the amount of such appropriation by the Council, support such amount in all further budgetary deliberations. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

Legislative history of Law 3-172. — See note to § 2-2501.

§ 2-2512. Lottery and Charitable Games Fund.

(a) A District of Columbia Lottery and Charitable Games Fund (hereinafter referred to as the "Fund") shall be established and controlled by the Board to receive all funds and fees generated by the specific forms of gambling operated or licensed by the Board. All funds generated by gambling activities operated or licensed by the Board shall be deposited in the Fund or a division thereof as created by the Board.

(b) Any monies of the Board, from whatever source derived (including gifts to the Board), shall be for the sole use of the Fund and shall be deposited as soon as practicable in that Fund and shall be disbursed from the Fund according to the terms of this chapter. Said disbursements from the Fund in amounts up to \$500 shall be paid out in checks signed by the Executive Director or his designee. Disbursements in excess of \$500 shall be paid out in checks signed by the Executive Director and a member of the Board authorized and designated by the Board. All deposits of such monies shall be secured in a manner consistent with deposits made by the government of the District of Columbia with respect to the deposit of revenue.

(c) From the Fund, the Board shall first pay for the operation, administration, and capital expenses of the specific forms of gambling operated and licensed by the Board as authorized by this chapter, including the payment of prizes to winners of the games, as specified in this chapter pursuant to regula-



tions promulgated by the Board. The remainder shall be paid over by the Board, on a monthly basis promptly after the 1st of the month for the preceding month, into the General Fund of the District of Columbia as general purpose revenue funds of the District of Columbia. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Section references.** — This section is referred to in §§ 2-2513 and 2-2514. **Legislative history of Law 3-172.** — See note to § 2-2501.

§ 2-2513. Operation of lottery.

The Board shall operate and conduct a lottery and shall determine the number of times a lottery shall be held each year, the form and price of tickets therefor, the number and value of prizes to winning participants, determined in a manner and on a basis designated by the Board. The proceeds of the sale of tickets shall be deposited in the Fund from which prizes shall be paid according to regulations established by the Board under § 2-2512. The Board may provide by regulation for the payment of prizes to winners directly by licensed agents. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

§ 2-2514. Operation of daily numbers games.

The Board shall operate and conduct a daily numbers game. The proceeds of the sale of tickets shall be deposited in the Fund from which prizes shall be paid in the manner specified in § 2-2512. The Board shall authorize daily numbers games sales agents to distribute monies from the Fund to holders of winning tickets pursuant to regulations established by the Board. The Board may provide by regulation for the payment of prizes to winners directly by licensed agents. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Section references.** — This section is referred to in § 2-2516. **Legislative history of Law 3-172.** — See note to § 2-2501.

§ 2-2515. Sale of lottery and daily numbers games tickets by licensed agents; unauthorized sale.

The Board may license, as agents to sell lottery and daily numbers games tickets, such persons and establishments as, in its judgment, possess the requisite qualifications, including, but not limited to: The financial responsibility of the person and his business or activity; the accessibility of the place of business or activity to the public; the sufficiency of existing licenses to serve the public convenience; and the volume of expected sales. No license as an agent shall be issued to any person to engage in business primarily as a lottery agent. The Board may authorize compensation to such agents in such manner and amounts and subject to such limitations as it may determine are necessary to assure adequate availability of lottery and daily numbers games

tickets. The Board shall also require that an agent be bonded in such amounts and in such manner as determined by the Board. The Board shall condition the issuance of a license upon the written agreement of the licensee to indemnify and to save harmless the District of Columbia against any and all actions, claims, and demands of whatever kind or nature which the District of Columbia may incur by reason of or in consequence of issuing such license. No lottery or daily numbers games tickets shall be sold at other than the price fixed by the Board, and no sale shall be made by other than a licensee or his employee. Any person convicted of violating this section shall be subject to a fine not to exceed \$1,000 or imprisonment not to exceed 6 months, or both. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

### **§ 2-2516. Sales agents' special accounts; reports of receipts and transactions.**

The Board, in its discretion, may require lottery and daily numbers games sales agents to deposit in the Fund or a special escrow account, in the name of the Board, to the credit of the Board, which the Board is authorized to establish, in institutions designated by it which are legal for the deposit of municipal funds, all monies received by such agents from the sale of lottery and daily numbers games tickets less the amount of authorized compensation to licensed agents and prizes, if any, authorized under § 2-2514, and to file with the Board reports of their receipts and transactions in the sale of lottery and daily numbers games tickets in such form and containing such information as the Board may require. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Section references.** — This section is referred to in § 2-2517.

**Legislative history of Law 3-172.** — See note to § 2-2501.

### **§ 2-2517. Depositories.**

The Board may authorize compensation to such depositories in such manner and amounts and subject to such limitations as the Board may determine. The depositories referred to in § 2-2516 shall transfer the deposits made pursuant to § 2-2516 to the designated accounts of the Board, less any compensation for services rendered by the depositories to the Fund, and less any amounts due the agents or depositories by adjustments authorized by the Board because of depository or agent errors. The depositories shall file reports of their receipts and transactions in such form and containing such information as the Board may require. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

### § 2-2518. Unclaimed prizes.

Unclaimed prizes for a winning ticket or share shall be retained by the Board for the person entitled thereto for 1 year after the drawing in which the prize was won. If no claim is made for the prize within the 1-year period, the prize shall be paid over to the General Fund of the District of Columbia. Nothing in this section shall be construed to prohibit the holding of bonus games or drawings with a preannounced period for claiming of prizes of other than 1 year. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

### § 2-2519. Audit.

The Auditor of the District of Columbia shall cause to be conducted a regular post audit of all accounts and transactions of the Board with respect to the operation of lottery and daily numbers games. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

### § 2-2520. Persons ineligible to purchase tickets or shares or receive prizes.

No ticket or share shall be purchased by, and no prize shall be paid to, any of the following persons: Any member or employee of the Board or any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any member or employee of the Board. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

**Applicability.** — This section limits its ban on shares to Board employees and members of

their households, and does not extend the ban generally to those who are permitted to purchase tickets. *Pearsall v. Alexander*, App. D.C., 572 A.2d 113 (1990).

### § 2-2521. Rules and regulations governing conduct of lottery and daily numbers games.

The Board shall adopt rules and regulations governing the conduct of lotteries and daily numbers games to insure the integrity of the conduct of lotteries and daily numbers games to protect the economic welfare and interests in fair and honest play of lotteries and daily numbers games participants. Such rules and regulations shall include, but not be limited to: Specific application requirements and the form thereof; the terms, conditions, and rules for lotteries or daily numbers games; amount of or value of prizes; and the occasions on and frequency with which lotteries and daily numbers games may be conducted. The Board shall have the authority to impose a fine of not more than \$1,000 for any violation of such rules and regulations. The Board also shall



have the authority to suspend licenses of any person, firm, partnership, association, organization, or corporation for a period not to exceed 60 days for violation of such rules and regulations. All fines imposed pursuant to this section shall be paid over to the Board which shall place such fines in the Fund. Any person, firm, partnership, association, organization, or corporation fined or suspended pursuant to this section shall have a right to a hearing before the Board and, in the event of its affirmation of such fine or suspension, the right to appeal such fine or suspension to the Superior Court of the District of Columbia. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

## § 2-2522. Operation of bingo and raffles.

The Board may authorize the operation of bingo and raffles in the District of Columbia. Bingo means that form of gambling in which the winning chances are determined by a random drawing of a subset of numbered objects among a total set of 75 objects, consecutively numbered from 1 to 75; and the card, or cards, held by the player, which card or cards is or are sold, rented, or used only at the time of the gambling activity, and contains 5 rows of 5 spaces each, each space imprinted with a number between 1 and 75 inclusive, except the central space which is marked "FREE." For the purpose of this section, raffle is a lottery, other than that operated by the District of Columbia pursuant to this chapter, in which a prize is won by at least 1 of numerous persons buying chances. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

### § 2-2522.1. Monte Carlo night party.

(a) The Board may authorize the operation of Monte Carlo night parties in the District of Columbia.

(b) A Monte Carlo night party means an event for raising funds for charitable purposes at which wagers are made, through the use of imitation money presented to a participant in exchange for a donation to the event, in games of chance customarily associated with a gambling casino and at which a participant may use any accumulated imitation money to purchase prizes at the end of the event. The term "Las Vegas night party" may also be used to describe this type of event.

(c) The Board shall issue proposed rules, pursuant to subchapter I of Chapter 15 of Title 1, to implement the provisions of this section. In developing the proposed rules, the Board shall not permit any person, firm, partnership, association, organization, or corporation to sponsor, conduct, or hold more than 2 Monte Carlo night parties in a calendar year, shall place a maximum monetary value amount on the prizes that may be offered, and shall mandate that there be no direct correlation between the amount of imitation money presented to a participant and the participant's donation to the event. The

proposed rules shall be submitted to the Council of the District of Columbia ("Council") for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed effective. (Apr. 11, 1987, D.C. Law 6-220, § 2(b)(3), 34 DCR 900.)

**Legislative history of Law 6-220.** — Law 6-220, the "Monte Carlo Night Party Licensure Amendment Act of 1986," was introduced in Council and assigned Bill No. 6-527, which was referred to the Committee on Libraries, Recreation, and Charitable Games. The Bill was

adopted on first and second readings on November 18, 1986, and December 16, 1986, respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-276 and transmitted to both Houses of Congress for its review.

## § 2-2523. Licenses to conduct bingo games, raffles, and Monte Carlo night parties.

(a) No person, firm, partnership, association, organization, or corporation shall sponsor, conduct, or hold a bingo game, raffle, or Monte Carlo night party in the District of Columbia without a license issued by the Board.

(b) The Board may issue a license under this section to a person, firm, partnership, association, organization, or corporation engaged in or existing for charitable, benevolent, eleemosynary, humane, religious, philanthropic, recreational, social, educational, civic, fraternal, or other nonprofit purposes that conducts an activity to which contributions are deductible for federal or municipal income tax purposes if the applicant:

(1) Is incorporated in the District of Columbia as a not-for-profit corporation as defined by the District of Columbia Nonprofit Corporation Act, or organized in the District of Columbia as a religious or not-for-profit organization;

(2) Has at least 20 members in good standing, if an association or organization;

(3) Is authorized by its constitution, articles, charter, or bylaws to further a lawful purpose in the District of Columbia;

(4) Operates without profit to its partners or members;

(5) Permits no part of its net earnings to inure to the benefit of a private shareholder, partner, employee, or individual; and

(6) Has been in existence for not less than 1 year immediately preceding application for a license, during which time the applicant's membership actively engaged in furthering the lawful purpose authorized by its constitution, articles, charter, or bylaws.

(b-1)(1) The Board may issue a license to sell raffle tickets in the District of Columbia to any person, firm, partnership, association, organization, or corporation that is incorporated in Maryland or in Virginia as a not-for-profit corporation or is organized in Maryland or Virginia as a religious or not-for-profit organization if the applicant:

(A) Is engaged in or exists for charitable, benevolent, eleemosynary, humane, religious, philanthropic, recreational, social, educational, civic, fra-

ternal, or other nonprofit purposes, for which contributions are deductible for federal, state, or municipal income tax purposes;

(B) Operates without profit to its members;

(C) Permits no part of any net earnings to inure to the benefit of any private shareholder, partner, employee, or individual;

(D) Is authorized by its constitution, articles of incorporation, charter, or bylaws to further a lawful purpose in its state of incorporation or organization that is also a lawful purpose in the District of Columbia;

(E) Has been in existence for not less than 1 year immediately preceding application for a license, during which 1-year period a bona fide membership actively engaged in furthering the lawful purpose authorized by its constitution, articles of incorporation, charter, or bylaws has existed;

(F) Has at least 20 members in good standing, all of whom are residents of the applicant's state of incorporation or organization or the District of Columbia;

(G) Holds the raffle draw in the applicant's state of incorporation or organization or in the District;

(H) Has obtained any license required outside the District of Columbia for the conduct of the raffle from the relevant licensing authority; and

(I) Guarantees that 30% or more of the net proceeds from the raffle shall be paid to persons, firms, partnerships, associations, organizations, or corporations that meet the licensing requirements of subsection (b) of this section or shall inure to the benefit of programs or activities of the applicant that are conducted in the District of Columbia.

(2) The Board shall, within 60 days of May 21, 1988, issue rules to implement the provisions of this subsection. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirement imposed upon the Board by subchapter I of Chapter 15 of Title 1.

(3) To the extent that existing rules issued by the Board are not inconsistent with the provisions of this subsection, those rules shall continue to apply to the issuance of licenses under this section until the rules required by paragraph (2) of this subsection become effective.

(c) The Board may issue a license under this section to a senior citizen group in accordance with rules that may be adopted by the Board pursuant to this chapter.

(d) The Board may issue a license under this section, upon application, to a citizen-service program established pursuant to § 1-1443, in accordance with rules that may be adopted by the Board pursuant to this chapter. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Apr. 11, 1987, D.C. Law 6-220, § 2(b)(4), 34 DCR 900; Mar. 9, 1988, D.C. Law 7-83, § 2, 34 DCR 8119; May 21, 1988, D.C. Law 7-119, § 2, 35 DCR 2690.)



**Legislative history of Law 3-172.** — See note to § 2-2501.

**Legislative history of Law 6-220.** — See note to § 2-2505.

**Legislative history of Law 7-83.** — Law 7-83, the "Nonprofit Raffle Licensing Amendment Temporary Act of 1987," was introduced in Council and assigned Bill No. 7-356. The Bill was adopted on first and second readings on November 10, 1987 and November 24, 1987, respectively. Signed by the Mayor on December 10, 1987, it was assigned Act No. 7-118 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-119.** — Law 7-119, the "Nonprofit Raffle Licensing Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-359, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 1, 1988 and March 15, 1988, respectively. Signed by the Mayor on March 31, 1988, it was assigned Act No. 7-165 and transmitted to both Houses of Congress for its review.

**References in text.** — The District of Columbia Nonprofit Corporation Act, referred to in subsection (b)(1), is 76 Stat. 265.

## § 2-2524. Rules and regulations governing conduct of bingo and raffles.

The Board shall adopt rules and regulations governing the conduct of bingo and raffles to insure the integrity of the conduct of bingo and raffles, to protect the economic welfare and interests in fair and honest play of bingo and raffles participants. Such rules and regulations shall include, but not be limited to: Specific application requirements and the form thereof; the terms, conditions, and rules for bingo and raffles; amount of or value of prizes; the premises to be utilized and the terms of such use; the occasions on and frequency with which bingo and raffles may be conducted; and the definition and use of gross receipts from the conduct of bingo and raffles. The Board shall have the authority to impose a fine of not more than \$1,000 for any violation of such rules and regulations. The Board also shall have the authority to suspend the license of any person, firm, partnership, association, organization, or corporation for a period not to exceed 60 days for violation of such rules and regulations. All fines imposed pursuant to this section shall be paid over to the Board which shall place any such fines in the Fund. Any person, firm, partnership, association, organization, or corporation fined or suspended pursuant to this section shall have a right to a hearing before the Board and, in the event of its affirmation of such fine or suspension, the right to appeal such fine or suspension to the Superior Court of the District of Columbia. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

## § 2-2525. Designation of individual responsible for proper utilization of receipts; financial responsibility bond; license fees.

Each person, firm, partnership, association, organization, or corporation conducting bingo and raffles shall designate an individual as responsible for the proper utilization of gross receipts in a manner not in violation of or contrary to the rules and regulations of the Board and to insure that utilization of such gross receipts is in accordance with and sanctioned by such rules

and regulations. A financial responsibility bond with sufficient sureties shall be given to the Board to insure the faithful discharge of the duties of the responsible member for the proper utilization of gross receipts and payment of all required fees and taxes. Said financial responsibility bond and said fees shall be determined by the Board. Each person, firm, partnership, association, organization, or corporation shall pay to the Board a license fee for each occasion proposed for the conduct of bingo and raffles; an annual license fee for each person designated to conduct bingo and raffles on each proposed occasion; and an annual license fee for each member responsible for the proper utilization of gross receipts. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

**§ 2-2526. License to supply bingo equipment and supplies.**

No person, firm, partnership, association, organization, or corporation licensed by the Board to conduct bingo shall purchase or receive bingo equipment and supplies, as defined by the rules and regulations of the Board, except from a person, firm, partnership, association, organization, or corporation licensed by the Board to supply such equipment. Any person, firm, partnership, association, organization, or corporation intending to sell, supply, or distribute bingo equipment and supplies shall apply for a suppliers license on an application form prescribed by the Board. Such application shall include, but not be limited to: The name and address of the applicant; a designation of the type of business organization of the applicant and the date and place of its original establishment; the name and address of each officer, director, shareholder, partner, or other person with an ownership interest in the applicant business; a statement showing the gross receipts realized in the preceding year on the sale or distribution of bingo supplies and equipment to licensed organizations; the name and address of any supplier of bingo supplies and equipment to the applicant; the number of years the applicant has been in the business of supplying bingo supplies and equipment; and, if the applicant business is organized outside of the District, the name and address of a resident agent who is authorized to be served legal documents and receive notices, orders, and directives of the Board. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

**§ 2-2527. Suppliers' price list; fees; financial responsibility bonds; maintenance of books and records.**

Each application for a suppliers' license, or renewal thereof, shall be accompanied by a certified copy of the price list of the applicant's bingo supplies and equipment, a fee, and a financial responsibility bond. Said fees and financial responsibility bonds shall be set by the Board. Each licensed supplier shall

maintain books and records in such manner as to enable the Board to determine the gross sales of bingo supplies and equipment. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

**§ 2-2528. Persons ineligible for suppliers' license.**

The Board, in its discretion, may determine the following persons not to be eligible to receive a suppliers' license: A person convicted of a felony who either has not received a pardon or has not been released from parole or probation for at least 5 years; a person who is or has been a professional gambler or gambling promoter; a public officer or employee; or a business in which a person disqualified under provisions of this section is employed or active or in which a person is married or related in the 1st degree of kinship to such person who has an interest of more than 10 percent in the business. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

**§ 2-2529. Prohibited suppliers' activities.**

No person shall sell or distribute bingo samples or equipment to any licensed organization without first having obtained a suppliers' license, but an organization which is or has been, during the preceding 12 months, licensed to conduct bingo in the District of Columbia may sell bingo supplies and equipment actually used by it in the conduct of bingo to another licensed organization. No licensed supplier shall sell bingo cards unless there is printed thereon the name, mark, or symbol of the printer or manufacturer which the supplier has registered with the Board. No person directly or indirectly connected with the manufacture, sale, or distribution of bingo supplies or equipment, and no agent, servant, or employee of such person, shall conduct, advise, or assist in the conduct of bingo; render any service to anyone conducting or assisting in the conduct of bingo; or prepare any form required of a licensed organization pertaining to bingo. No licensed supplier, or his agent, salesman, or representative, shall, during the term of the license, sell or distribute bingo supplies or equipment to any person or organization other than a licensed supplier or licensed organization. No licensed supplier, or his authorized agent, salesman, or representative, shall be present to transact business during the conduct of bingo. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.



**§ 2-2530. Standards for bingo cards.**

A standard set of bingo cards shall consist of at least 3,000 cards numbered in sequence. Each card in a set differs from all others with respect to the distribution of playing numbers. Any number of cards may be supplied to a licensed organization and sold or rented to players at any bingo occasion, provided that all cards so supplied or sold or rented are drawn from a standard set of bingo cards. On a bingo card there shall be 25 playing spaces which shall be contained within an area not less than 4 square inches. Before any bingo card becomes the property of any person, firm, partnership, association, organization, or corporation licensed to conduct bingo by the Board, there shall be imprinted or otherwise permanently marked on it a symbol assigned to the supplier by the Board and the name of the licensed person, firm, partnership, association, organization, or corporation which owns such cards. Such symbol and name need not be marked more than once on such cards. The Board shall adopt such other definitions and standards for special bingo cards, groupings of cards, and methods of securing numbers as it deems necessary. No advertising matter shall be printed or otherwise marked on any bingo card or grouping of bingo cards, except the name, mark or symbol of its manufacturer or printer, the code symbol of its licensed supplier, and the name of the licensed organization which owns it. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

**§ 2-2531. License suspension or revocation.**

Any license granted under the provisions of this chapter shall be subject to the regulations set forth by the Board and shall be subject to suspension or revocation for good cause, after giving the licensee a reasonable opportunity for a hearing, at which he shall have the right to be represented by counsel. If any license is suspended or revoked, the Board shall state the reasons for such suspension or revocation and cause an entry of such reasons to be made on the record books of the Board. Any licensee aggrieved by the action of the Board may appeal therefrom to the Superior Court of the District of Columbia within 30 days of the final decision of the Board. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

**§ 2-2532. Aiding or abetting unauthorized bingo games, raffles, or Monte Carlo night parties; penalties.**

No person shall aid or abet in the conduct of any bingo game, raffle, or Monte Carlo night party, except in accordance with a license duly issued and unsuspended or revoked by the Board. Any person convicted of violating this section shall be subject to a fine not to exceed \$1,000 or imprisonment not to

exceed 6 months, or both. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this section, or any rules or regulations issued under the authority of this section, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this section shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Oct. 5, 1985, D.C. Law 6-42, § 406(a), 32 DCR 4450; Apr. 11, 1987, D.C. Law 6-220, § 2(b)(5), 34 DCR 900.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The

Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-220.** — See note § 2-2505.

## § 2-2533. Forged, counterfeit or altered tickets.

No person shall: Forge or counterfeit any ticket made for the purposes of any lottery or daily numbers games; alter any number imprinted on such a ticket; offer for sale or sell any such forged, counterfeited, or altered ticket, knowing it to be such; or present any such forged, counterfeited, or altered ticket to any person engaged in carrying out this chapter; with the intent to defraud the District of Columbia or any person participating in any such lottery or daily numbers games. Any person convicted of violating this section shall be subject to a fine not to exceed \$5,000 or imprisonment not to exceed 1 year or both. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this section, or any rules or regulations issued under the authority of this section, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this section shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Oct. 5, 1985, D.C. Law 6-42, § 406(b), 32 DCR 4450.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

**Legislative history of Law 6-42.** — See note to § 2-2532.

## § 2-2534. Gambling by minor prohibited.

No person shall knowingly permit any person under the age of 18 to participate in a game of bingo or to wager in any gambling activity authorized under this chapter. No person shall knowingly permit a person under the age of 18 years, unless accompanied by an adult, to be present in any room, office, building, or establishment where bingo, raffles, or Monte Carlo night parties is being played. Any person convicted of violating this section shall be subject to a fine not to exceed \$300 or imprisonment not to exceed 30 days or both. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Apr. 11, 1987, D.C. Law 6-220, § 2(b)(6), 34 DCR 900.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

**Legislative history of Law 6-220.** — See note to § 2-2522.1.

### § 2-2535. Payment of prize by or on behalf of minor.

If a person entitled to a lottery prize is under 18 years of age and the prize is less than \$5,000, the Board may require that payment of the prize be directed to an adult member of the minor's family or to a guardian of the minor in a check or draft payable to the order of the minor. If the person entitled to the prize is under 18 years of age and the prize is \$5,000 or more, the Board may direct payment to the minor by depositing the amount of the prize in any bank, to the credit of an adult member of the minor's family or to a guardian of the minor, as custodian of the minor. The person so named as custodian shall have the same duties and powers as a custodian designated under Uniform Transfers to Minors Act, D.C. Code, § 21-301 et seq. The Board is discharged of all further liability upon payment of the prize to a minor under this section. (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Mar. 12, 1986, D.C. Law 6-87, § 3(a), 33 DCR 278.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

**Legislative history of Law 6-87.** — Law 6-87, the "District of Columbia Uniform Transfers to Minors Act," was introduced in Council and assigned Bill No. 6-58, which was referred to the Committee on the Judiciary. The Bill

was adopted on first and second readings on November 19, 1985, and December 3, 1985, respectively. Signed by the Mayor on December 30, 1985, it was assigned Act No. 6-115 and transmitted to both Houses of Congress for its review.

### § 2-2536. Competitive bid contracts.

(a) No Board member, officer, or employee of the Board designated to enter into contracts for the operation of any of the forms of gambling authorized by this chapter shall have any material interest, either directly or indirectly, in any contract with a vendor for the purchase of supplies, materials, equipment, machinery, work, or other items relating to or necessary for the operation of such gambling form.

(b) The Board shall let, in respect to all contracts for \$1,000 or more for supplies, materials, equipment, machinery, work, or other items relating to or necessary for the operation of any gambling form, formally on a competitive bid basis. All such contracts shall be awarded for a period of years, not exceeding 5, to the lowest and most technically competent bidder taking into account secondary cost benefits and the resulting projected net revenue which would accrue to the benefit of the District of Columbia over the term of the contract.

(c) Such contracts shall be signed on behalf of the Board by the Chairperson of the Board and by any other officer as the Board may designate.

(d) No contract awarded or entered into by the Board may be assigned by the holder thereof except by specific approval of the Board.

(e) The Board shall promulgate regulations establishing competitive bid procedures to carry out the terms of this section.

(f) Nothing in this section shall abrogate the right of the Board to participate in General Service Administration purchasing.



(g) Contracts awarded by the Board for more than 1 year shall not be governed by the provisions of the Antideficiency Act (31 U.S.C. §§ 1341, 1342, and 1349 to 1351, and 1511 through 1519). (Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736.)

**Legislative history of Law 3-172.** — See note to § 2-2501.

**References in text.** — The Antideficiency Act (31 U.S.C. §§ 1341, 1342, and 1349 to 1351, and 1511 through 1519, referred to in subsection (g) of this section, was originally codified as 31 U.S.C. § 665 and was recodified by the Act of September 13, 1982, Pub. L. 97-258.

**Award of contract for on-line lottery system** is not a contested case and a direct appeal from the Board's decision to the Court of Appeals will not lie. *Network Technical Servs., Inc. v. D.C. Data Co.*, App. D.C., 464 A.2d 133 (1983).

## § 2-2537. Exemption from District income tax.

Repealed. July 25, 1989, D.C. Law 8-17, § 3, 36 DCR 4160.

**Legislative history of Law 8-17.** — Law 8-17, the "Revenue Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-224, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 2, 1989 and May 16, 1989, respectively. Signed by the Mayor on May 26, 1989, it was assigned Act No. 8-34 and transmitted to both Houses of Congress for its review.

**Application of Law 8-17.** — Section 12 of D.C. Law 8-17 provided that §§ 2(a), (b) and (c) and 3 shall apply to all taxable years beginning after December 31, 1988. Section 2(d) and (e) shall apply to all taxable periods beginning after September 30, 1989. All other sections of the act shall apply as of July 1, 1989.

## CHAPTER 26. SECURITY AGENTS AND BROKERS.

Sec.

2-2601. Definitions.

2-2602. Fraudulent acts unlawful.

2-2603. License — Required; expiration.

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2-2605. Unlawful representations.

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2-2610. Investigations.

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2-2615. Application of chapter; service of process.

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2-2617. District of Columbia Securities Advisory Committee.

2-2618. Severability.

2-2619. Change of name of Public Utilities Commission.

### § 2-2601. Definitions.

When used in this chapter, unless the context otherwise requires:

(1) "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities. "Agent" does not include any individual who represents an issuer in: (A) Effecting transactions in an exempt security; (B) effecting exempt transactions; or (C) effecting transactions with existing employees, partners, or directors of the issuer or any of its subsidiaries if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in the District. A partner, officer, or director of a broker-dealer or issuer, or a person occupying similar status or performing similar functions, is an agent only if he otherwise comes within this definition.

(2) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include:

(A) An agent;

(B) An issuer;

(C) A bank, savings institution, or trust company; or

(D) A person who has no place of business in the District if:

(i) He effects transactions in the District exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies, as defined in the Investment Company Act of 1940 (15 U.S.C. § 80a-1 et seq.), pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees; or

(ii) During any period of 12 consecutive months he does not direct more than 15 offers to sell or buy into the District in any manner to persons other than those specified in sub-subparagraph (i) of this subparagraph, whether or not the offeror or any of the offerees is then present in the District.

(3) "Commission" means the Public Service Commission of the District of Columbia as so designated by § 2-2619.

(4) "District" means the District of Columbia, either as a territorial area as defined in § 1-101, or as the government and municipal corporation of that name as created by § 1-102, depending on the context.

(5) For the purpose of paragraph (1) of this section "exempt security" means:

(A) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, the District, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing;

(B) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(C) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution, or trust company organized and supervised under the laws of any state;

(D) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within 9 months of the date of issuance, exclusive of days of grace, or any renewals of such paper which is likewise limited, or any guarantee of such paper or of any such renewal; or

(E) Any investment contract issued in connection with an employees' stock purchase, savings, pension, profit-sharing, or similar benefit plan.

(6) For the purpose of paragraph (1) of this section "exempt transaction" means:

(A) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or any transaction among underwriters;

(B) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;

(C) Any transaction by a receiver or trustee in bankruptcy;

(D) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

(E) Any transaction pursuant to an offer directed by the offeror to not more than 25 persons in the District during any period of 12 consecutive months, whether or not the offeror or any of the offerees is then present in the District, if the seller reasonably believes that all the buyers in the District are purchasing for investment;



(F) Any offer or sale of a preorganization certificate or subscription if:

(i) No commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber;

(ii) The number of subscribers does not exceed 25; and

(iii) No payment is made by any subscriber;

(G) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants, exercisable within not more than 90 days of their issuance, if:

(i) No commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in the District; or

(ii) The issuer first files a notice specifying the terms of the offer and the Commission does not by order disallow the exemption within the next 5 full business days; or

(H) Any transaction effected with existing employees, partners, or directors of the issuer or any of its subsidiaries if no commission or other remuneration is paid or given, directly or indirectly, for soliciting any person in the District.

(7) "Fraud," "deceit," and "defraud" shall not be limited to common-law deceit.

(8) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.

(9) "Issuer" means any person who issues or proposes to issue any security, except that:

(A) With respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors or persons performing similar functions, or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued; and

(B) With respect to certificates of interest or participation in oil, gas, or mining titles or leases or in payments out of production under such titles or leases, there is not considered to be any "issuer."

(10) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(11)(A) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of a security or interest in a security for value.

(B) "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of any offer to buy, a security or interest in a security for value.

(C) Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value.

(D) A purported gift of assessable stock is considered to involve an offer and sale.

(E) Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(F) The terms defined in this paragraph do not include:

(i) Any bona fide pledge or loan;

(ii) Any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the dividend other than the surrender of a right to a cash or property dividend when each stockholder may elect to take the dividend in cash or property or in stock;

(iii) Any act incident to a class vote by stockholders, pursuant to the certificate of incorporation or the applicable corporation statute, on a merger, consolidation, reclassification of securities, or sale of corporate assets in consideration of the issuance of securities of another corporation; or

(iv) Any act incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash.

(12) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed sum of money either in a lump sum or periodically for life or some other specified period or any contract issued by an insurance company pursuant to § 35-639.

(13) "State" means any state, territory, or possession of the United States, and the Commonwealth of Puerto Rico, but not the District of Columbia. (Aug. 30, 1964, 78 Stat. 620, Pub. L. 88-503, § 2; 1973 Ed., § 2-2401.)

**Cross references.** — As to professional corporations exempt from operation of chapter, see § 29-612.

**Section references.** — This section is referred to in §§ 2-2607 and 43-612.

**References in text.** — The "Investment Company Act of 1940," referred to in subdivision (6)(D) of this section, is codified as 15 U.S.C. § 80a-1 et seq.

**§ 2-2602. Fraudulent acts unlawful.**

It shall be unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly:

- (1) To employ any device, scheme, or artifice to defraud;
- (2) To make any untrue statement of a material fact, or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they are made, not misleading; or
- (3) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person. (Aug. 30, 1964, 78 Stat. 623, Pub. L. 88-503, § 3; 1973 Ed., § 2-2402.)

**Section references.** — This section is referred to in §§ 2-2612, 2-2615, and 43-612.

**This section is general antifraud provision of Blue Sky Law.** Hammerman v. Peacock, 607 F. Supp. 911 (D.D.C. 1985).

**Civil liability under this section is specifically precluded.** Hammerman v. Peacock, 607 F. Supp. 911 (D.D.C. 1985).

**§ 2-2603. License — Required; expiration.**

(a) It shall be unlawful for any person to transact business in the District as a broker-dealer or agent unless he is effectively licensed under this chapter.

(b) It shall be unlawful for any broker-dealer or issuer to employ an agent unless the agent is effectively licensed under this chapter. The license of an agent shall not be effective during any period when he is not associated with a particular broker-dealer or a particular issuer. When an agent begins or terminates a connection with a broker-dealer or issuer, or begins or terminates those activities which make him an agent, the agent as well as the broker-dealer or issuer shall promptly notify the Commission.

(c) Every license and renewal license shall expire 1 year from its effective date, but in any case in which timely and sufficient application for a renewal license has been made in accordance with § 2-2604(a) no license shall expire until final action of the Commission upon such pending application. The Commission may by rule or order fix a schedule for the 1st renewal of licenses so that subsequent renewals may be staggered over the 1-year period. For this purpose the Commission shall reduce the license fee proportionately for any initial license which may expire before 1 year from its effective date. (Aug. 30, 1964, 78 Stat. 623, Pub. L. 88-503, § 4; 1973 Ed., § 2-2403.)

**Section references.** — This section is referred to in §§ 2-2613, 2-2615, and 43-612.

**Cited in** Weiss v. Lehman, 713 F. Supp. 489 (D.D.C. 1989).

**§ 2-2604. Same — Application; fees; net capital requirements; bond; renewal.**

(a)(1) A broker-dealer or agent may obtain an initial license by filing with the Commission an application executed by all partners, directors, and officers of the applicant personally engaged in the securities business in the District, together with a consent to service of process pursuant to § 2-2615(f). The



application for each broker-dealer applicant shall contain the following information, and for each partner, officer, or director, each person occupying a similar status or performing similar functions, and each person directly or indirectly controlling such broker-dealer the information prescribed in subparagraphs (C), (D), (E), and (G) of this paragraph; and the application for each agent shall contain the information specified in subparagraphs (C), (D), (E), and (G) of this paragraph:

- (A) The applicant's form and place of organization;
- (B) The applicant's proposed method of doing business;
- (C) The qualifications and business history of the applicant;
- (D) Each injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony;
- (E) Each disciplinary action by a securities exchange or securities association within the 10 years preceding the date of application;
- (F) The applicant's financial condition and history; and
- (G) Such other matters as the Commission may by rule prescribe as being necessary or appropriate in the public interest or for the protection of investors.

(2) The Commission may by rule or order require an applicant for an initial license to publish an announcement of the application in 1 or more specified newspapers published in the District. If no denial order is in effect and no proceeding is pending under § 2-2609, a license shall become effective at noon of the 30th day after any application is filed. The Commission may by rule or order specify an earlier effective date, and it may by order defer the effective date until noon of the 30th day after the filing of any amendment to an application.

(b) An applicant for an initial or renewal license shall pay a filing fee which shall be fixed by the Commission. The Commission shall also fix a fee for the transfer of agents from 1 broker-dealer to another.

(c) A licensed broker-dealer may file an application for a license of a successor, whether or not the successor is then in existence, for the unexpired portion of the period during which the license of such broker-dealer is effective. Applicants shall pay a fee fixed by the Commission.

(d) Each broker-dealer licensed in the District shall have and maintain a minimum net capital of \$25,000, except that the Commission may, by rule, fix a minimum net capital in lesser amounts, but in no case less than \$5,000 net capital, for a broker-dealer with a limited license which authorizes such broker-dealer to engage only in transactions in securities registered under the Investment Company Act of 1940. The Commission may by rule prescribe a ratio between net capital and aggregate indebtedness. The Commission may, upon written application, exempt from the provisions of this subsection, either unconditionally or on specified terms and conditions, any broker-dealer who satisfies the Commission that, because of the special nature of its business, its financial position, and the safeguards which it has established for the protection of customers' funds and securities, it is not necessary, in the public inter-

est or for the protection of investors, to subject the particular broker-dealer to the provisions of this subsection.

(e) The Commission may by rule require a licensed broker-dealer or the agent of an issuer to post a surety bond issued by a corporate surety company licensed to do business in the District of Columbia in such amounts up to \$25,000 and on such conditions as the Commission may determine to be necessary or appropriate in the public interest or for the protection of investors, the surety bond of a licensed broker-dealer to cover such broker-dealer and all licensed agents thereof in the District of Columbia. Every bond shall provide for suit thereon by any person who may have a cause of action arising under § 2-2613, and, if the Commission by rule or order requires, by any person who may have a cause of action not arising under this chapter. Every bond shall provide that no suit may be maintained to enforce any liability on the bond unless brought within 2 years after the sale or other act upon which such liability is based.

(f) The license of a broker-dealer or agent may be renewed by filing with the Commission prior to the expiration thereof an application containing such information as the Commission may require to indicate any material change in the information contained in the original application or any renewal thereof, payment of the prescribed fee and, in the case of a broker-dealer, a financial statement showing the financial condition of such broker-dealer as of a date within 1 year prior to the date of such application for renewal.

(g) The Commission may by rule fix such other fees as are deemed necessary and appropriate for services provided in connection with the administration of this chapter. Such fees shall be generally commensurate with the cost of the service provided. (Aug. 30, 1964, 78 Stat. 625, Pub. L. 88-503, § 5; 1973 Ed., § 2-2404; Mar. 5, 1981, D.C. Law 3-133, § 2(a)-(e), 27 DCR 4417.)

**Section references.** — This section is referred to in §§ 2-2603, 2-2609, 2-2613, 2-2615 and 43-612.

**Legislative history of Law 3-133.** — See note to § 2-2614.

**References in text.** — The "Investment Company Act of 1940," referred to in subsection (d) of this section, is codified as 15 U.S.C. § 80a-1 et seq.

## § 2-2605. Unlawful representations.

(a) Neither the fact that an application for a license has been filed nor the fact that a person is effectively licensed shall constitute a finding by the Commission that any document filed under this chapter, or that any statement made therein, is true, complete, and not misleading. Neither any such fact nor the fact that an exemption is available for any person, security or transaction shall mean that the Commission has passed in any way upon the merits or qualifications of, or recommended or given approval to, any person, security, or transaction.

(b) It shall be unlawful for any broker-dealer or agent to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with subsection (a) of this section. (Aug. 30, 1964, 78 Stat. 625, Pub. L. 88-503, § 6; 1973 Ed., § 2-2405.)

**Section references.** — This section is referred to in §§ 2-2613, 2-2615 and 43-612.

## § 2-2606. Records; reports.

(a) Every licensed broker-dealer and agent shall make, keep, and preserve for such periods such accounts, correspondence, memorandums, papers, books, and other records, and make such reports, as the Commission by rule shall prescribe as necessary or appropriate in the public interest or for the protection of investors.

(b) All the records and reports referred to in subsection (a) of this section shall be subject at any time or from time to time to such reasonable periodic, special, or other examinations by the Commission, within or without the District, as the Commission may deem necessary or appropriate in the public interest or for the protection of investors. For the purpose of avoiding unnecessary duplication of examinations, the Commission, insofar as it may deem it practicable in administering this subsection, may cooperate with the securities administrator of any state, the Securities and Exchange Commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934. (Aug. 30, 1964, 78 Stat. 625, Pub. L. 88-503, § 7; 1973 Ed., § 2-2406.)

**Section references.** — This section is referred to in § 43-612.

**References in text.** — The Securities Ex-

change Act of 1934, referred to at the end of this section, was enacted as the Act of June 6, 1934, 48 Stat. 881, ch. 404.

## § 2-2607. Filing of sales and advertising literature.

The Commission may by order require any specific broker-dealer or agent to file with the Commission any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution to prospective investors, except sales and advertising literature describing an exempt security as defined in § 2-2601(5) or used in an exempt transaction as defined in § 2-2601(6). (Aug. 30, 1964, 78 Stat. 625, Pub. L. 88-503, § 8; 1973 Ed., § 2-2407.)

**Section references.** — This section is referred to in § 43-612.

## § 2-2608. False or misleading filings.

It shall be unlawful for any person to make, or cause to be made, in any document filed with the Commission or in any proceeding under this chapter any statement which is, at the time and in the light of the circumstances in which it is made, false or misleading in any material respect. (Aug. 30, 1964, 78 Stat. 626, Pub. L. 88-503, § 9; 1973 Ed., § 2-2408.)

**Section references.** — This section is referred to in §§ 2-2612 and 43-612.



**§ 2-2609. Denial, revocation, suspension, cancellation, and withdrawal of license.**

(a)(1) The Commission may by order deny, suspend, or revoke any license if it finds that the order is in the public interest and that the applicant or licensee or, in the case of a broker-dealer, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer:

(A) Has filed an application for a license, which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(B) Has willfully violated or willfully failed to comply with any provision of this chapter or any rule or order under this chapter, or has violated or failed to comply with the minimum capital requirement of § 2-2604(d) or any ratio rule prescribed thereunder;

(C) Has been convicted, within the past 10 years, of any misdemeanor involving a fiduciary relationship or a security or any aspect of the securities business, or of any felony, or has been acquitted of any such offense within the same period solely on the ground that he was insane at the time of its commission;

(D) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

(E) Is the subject of an order of the Commission denying, suspending, or revoking a license as a broker-dealer or agent;

(F) Is the subject of an order entered within the past 5 years by the securities administrator of any state or by the Securities and Exchange Commission denying or revoking a license or registration as a broker-dealer or agent, or the substantial equivalent of those terms as defined in this chapter, or is the subject of an order of the Securities and Exchange Commission suspending or expelling him from a national securities exchange or national securities association, or is the subject of a United States Postal Service fraud order; but:

(i) The Commission may not institute a revocation or suspension proceeding under this subparagraph more than 2 years from the date of the order or action relied on; and

(ii) It may not enter an order under this subparagraph on the basis of an order under a state act unless that order was based on facts which would currently constitute a ground for an order under this section;

(G) Has engaged in dishonest or unethical practices in the securities business or while acting in any fiduciary capacity;

(H) Is insolvent, either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature; but the Commission may not enter an order against a broker-dealer under this subparagraph without a finding of insolvency as to the broker-dealer; or

(I) Is not qualified on the basis of such factors as training, experience, and knowledge of the securities business, except as otherwise provided in subsection (b) of this section.

(2) The Commission may by order deny, suspend, or revoke any license if it finds that the order is in the public interest and that the applicant or licensee:

(A) Has failed reasonably to supervise his agents if he is a broker-dealer; or

(B) Has failed to pay the proper filing fee; but the Commission may enter only a denial order under this subparagraph, and it shall vacate any such order when the deficiency has been corrected.

(3) The Commission may not institute a suspension or revocation proceeding solely on the basis of a fact or transaction known to it when the license became effective unless the proceeding is instituted within the next 30 days.

(b) The following provisions shall govern the application of subsection (a)(1)(I) of this section:

(1) The Commission may not enter an order against a broker-dealer on the basis of the lack of qualification of any person other than:

(A) The broker-dealer himself if he is an individual; or

(B) An agent of the broker-dealer;

(2) The Commission may not enter an order solely on the basis of lack of experience if the applicant or licensee is qualified by training or knowledge or both;

(3) The Commission shall consider that an agent who will work under the supervision of a licensed broker-dealer need not have the same qualifications as a broker-dealer; and

(4) The Commission shall by rule provide for an examination, which may be written or oral or both, to be taken by any class of, or all, applicants.

(c) The Commission may by order summarily postpone issuance of a license or suspend an effective license pending determination of any proceeding under this section. Upon the entry of the order, the Commission shall promptly notify the applicant or licensee, as well as the employer or prospective employer if the applicant or licensee is an agent, that it has been entered and of the reasons therefor and that within 15 days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the Commission, the order will remain in effect until it is modified or vacated by the Commission. If hearing is requested or ordered, the Commission, after notice of an opportunity for hearing, may modify or vacate the order or extend it until final determination.

(d) If the Commission finds that any licensee or applicant for a license is no longer in existence, has ceased to do business as a broker-dealer or agent, has been adjudicated to be of unsound mind, or is subject to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the Commission may by order cancel the license or application.

(e) Withdrawal of a license of a broker-dealer or agent shall become effective 30 days after receipt of an application to withdraw or within such shorter

period of time as the Commission may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the application is filed. If a proceeding is pending or instituted, withdrawal shall become effective at such time and upon such conditions as the Commission shall by order determine. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the Commission may nevertheless institute a revocation or suspension proceeding under subsection (a)(1)(B) of this section within 1 year after withdrawal became effective and enter a revocation or suspension order as of the last date on which the license was effective.

(f) No order may be entered under any part of this section except the 1st sentence of subsection (c) of this section without:

(1) Appropriate prior notice to the applicant or licensee (as well as the employer or prospective employer if the applicant or licensee is an agent);

(2) Opportunity for hearing; and

(3) Findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record. (Aug. 30, 1964, 78 Stat. 626, Pub. L. 88-503, § 10; 1973 Ed., § 2-2409.)

**Cross references.** — As to administrative procedure, see Chapter 15 of Title 1. As to judicial review, see § 11-722.

**Section references.** — This section is referred to in §§ 2-2604 and 43-612.

## § 2-2610. Investigations.

(a) The Commission, in its discretion:

(1) May make such public or private investigations within or without the District as it deems necessary to determine whether any person has violated, or is about to violate, any provision of this chapter or any rule or order hereunder, or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder;

(2) May require or permit any person to file a statement in writing, under oath or otherwise as the Commission may determine, as to all the facts and circumstances concerning the matter to be investigated; and

(3) May publish information concerning any violation of this chapter or any rule or order hereunder, except that no public statement, notice, or release concerning any investigation, proceeding, or order under this chapter which is not a finding of a hearing examiner or of a Commissioner or a final determination of the Commission shall allege a violation of this chapter or a ground for denial, suspension, or revocation of a license, unless such statement, notice, or release specifies that such allegations are unproved until final determination, and that the purpose of the investigation or proceeding is to determine whether the allegations are true.

(b) For the purpose of any investigation or proceeding under this chapter, the Commission may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, agreements, or other documents or records which it deems relevant or material to the inquiry.



(c) In case of contumacy by or refusal to obey a subpoena issued to any person, the Superior Court of the District of Columbia, upon application by the Commission with the approval of the United States Attorney for the District of Columbia, may issue an order compelling such person to appear before the Commission, or the officer designated by it, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question; and any failure to obey such order of the Court may be punished by such Court as a contempt thereof.

(d) No person shall be excused from attending and testifying or from producing any document or record before the Commission, or the officer designated by it, in obedience to a court order pursuant to subsection (c) of this section, on the ground that the testimony or evidence (documentary or otherwise) required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is by such order compelled, after claiming his privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying shall not be exempt from prosecution and punishment for perjury or contempt committed in testifying.

(e) Any person compelled to appear in person before the Commission or a representative thereof shall be accorded the right to be accompanied, represented, and advised by counsel. (Aug. 30, 1964, 78 Stat. 628, Pub. L. 88-503, § 11; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, § 155(c) (11) (A); 1973 Ed., § 2-2410.)

**Section references.** — This section is referred to in § 43-612.

## § 2-2611. Injunctions.

Whenever it shall appear to the Commission that any person has engaged, or is about to engage, in any act or practice constituting a violation of this chapter or any rule or order hereunder, it may in its discretion bring an action in the Superior Court of the District of Columbia to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order hereunder. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The Court may not require the Commission to post a bond. (Aug. 30, 1964, 78 Stat. 629, Pub. L. 88-503, § 12; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, § 155(c)(11) (B); 1973 Ed., § 2-2411.)

**Section references.** — This section is referred to in § 43-612.

**§ 2-2612. Criminal penalties.**

(a) Any person who shall willfully violate any provision of this chapter except §§ 2-2602 and 2-2608, or who shall willfully violate § 2-2608 knowing the representation to be false or misleading in any material respect shall upon conviction be fined not more than \$5,000 or imprisoned not more than 3 years, or both.

(b) Any person who shall willfully violate § 2-2602 shall upon conviction be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

(c) Any person who shall willfully violate any rule or order under this chapter shall upon conviction be fined not more than \$5,000 or imprisoned not more than 1 year, or both; but no person may be imprisoned for the violation of any rule or order if he proves that he had no knowledge of the rule or order.

(d) No person shall be prosecuted, tried, or punished for any offense under this chapter or any rule or order hereunder unless the indictment is returned or the information is filed within 5 years next after such offense shall have been committed.

(e) Nothing in this chapter shall be construed to limit the power of the United States or of the District of Columbia to punish any person for any conduct which constitutes an offense under any other act of Congress applicable in the District, or under any municipal ordinance or regulation of the District, or at common law. (Aug. 30, 1964, 78 Stat. 629, Pub. L. 88-503, § 13; 1973 Ed., § 2-2412.)

**Section references.** — This section is referred to in § 43-612.

**§ 2-2613. Civil liabilities.**

(a) Any person who: (1) Offers or sells a security in violation of § 2-2603(a) or § 2-2605(b); or (2) offers or sells a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading (the purchaser not knowing of such untruth or omission), and who shall not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of such untruth or omission, shall be liable to the person purchasing such security from him, and the purchaser may bring a civil action to recover the consideration paid for the security with interest thereon and with costs and reasonable attorney fees less the amount of any income received on the security, upon the tender of the security, or for damages if he no longer owns the security. For this purpose damages shall be the amount that would be recoverable upon a tender, less the market value of the security when the buyer disposed of it and interest from the date of disposition.

(b) Any person who directly or indirectly controls a seller liable under subsection (a) of this section, any partner, officer, or director of such a seller and any person occupying a similar status or performing similar functions, any employee of such a seller who materially aids in the sale, and any broker-

dealer or agent who materially aids in the sale shall also be liable jointly and severally with and to the same extent as the seller, unless the nonseller who shall be so liable sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There shall be contribution as in cases of contract among the several persons so liable.

(c) Any tender specified in this section may be made at any time before entry of judgment.

(d) Any liability or cause of action under this section shall survive the death of any person who, if living, would have such a liability or cause of action.

(e) No person may bring an action under this section after 2 years from the contract of sale. No person may bring an action under this section:

(1) If the buyer received a written offer, before suit and at a time when he owned the security, to refund the consideration paid for the security together with interest at 6% from the date of payment, less the amount of any income received on the security, and if he failed to accept that offer within 30 days of its receipt; or

(2) If the buyer received such an offer before suit and at a time when he did not own the security, unless he rejected the offer in writing within 30 days of its receipt.

(f) No person who has made or engaged in the performance of any contract in violation of any provision of this chapter or of any rule or order hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit upon the contract.

(g) Any condition, stipulation, or provision binding any person who acquires any security to waive compliance with any provision of this chapter or with any rule or order under this chapter shall be void.

(h) The rights and remedies provided by this chapter shall be in addition to any other rights or remedies that may exist at law or in equity, but this chapter shall not create any cause of action not specified in this section or § 2-2604(e). (Aug. 30, 1964, 78 Stat. 629, Pub. L. 88-503, § 14; 1973 Ed., § 2-2413.)

**Section references.** — This section is referred to in §§ 2-2604, 2-2615, and 43-612.

**Reliance on misrepresentation necessary for recovery.** — Recovery under this chapter should not be allowed on the mere showing that the representation made by a seller of securities was inaccurate, if the sale was made under circumstances showing that such misrepresentation was not one which caused investor to enter into transaction; accordingly, where complaint under this chapter alleges certain misstatements, in contradistinction to failure to disclose material facts, some element of reliance must be shown to demonstrate that such statements caused injury complained of. *Price v. Griffin*, App. D.C., 359 A.2d 582 (1976).

**Individuals are subject to suit although not "agents" or "broker-dealers"** within meaning of subsection (b) of this section. *Price v. Griffin*, App. D.C., 359 A.2d 582 (1976).

**Civil liability under § 2-2602 is specifically precluded.** *Hammerman v. Peacock*, 607 F. Supp. 911 (D.D.C. 1985).

**Recovery of punitive damages.** — Evidence in an investor's action in common-law fraud and for violation of this section does not show special aggravating circumstances of kind necessary to justify verdict for punitive damages. *Price v. Griffin*, App. D.C., 359 A.2d 582 (1976).

**Recovery where purchase money held in escrow.** — Where an individual soliciting pur-



chase of stock in foreign corporation agreed with a potential investor that any money invested in the corporation would be held in escrow pending approval of a public offering of the stock issue abroad, and that such money would be returned to the investor if the stock was not issued, the investor was entitled to compensatory damages in amount of his investment, plus costs and attorney's fees, when such representations were not honored. *Price v. Griffin*, App. D.C., 359 A.2d 582 (1976).

**Pendent jurisdiction over local law claims where federal claim dismissed.** — The District Court would decline to exercise pendent jurisdiction over local law claims charging accountants with violation of state securities statutes and reckless or negligent misrepresentation where the federal claim against them had been dismissed at an early stage, before extended discovery and resultant framing of issues. *Houlihan v. Anderson-Stokes, Inc.*, 434 F. Supp. 1324 (D.D.C. 1977).

**Statute of limitations applicable in federal securities fraud cases.** — The 2-year statute of limitations contained in this section, not the 3-year statute of limitations of § 12-301 governing common-law fraud actions, applied to an action charging violation of federal statute prohibiting fraudulent interstate transactions in securities and statute prohibiting manipulative and deceptive devices in connection with purchase or sale of registered securities. *Forrestal Village, Inc. v. Graham*, 551 F.2d 411 (D.C. Cir. 1977); *Fishman v. Estrin*, 501 F. Supp. 208 (D.D.C. 1980).

When a private action is brought under § 10 (b) the federal Securities Exchange Act of 1934 (15 U.S.C. § 78j (b)) and § 17 (a) of the federal Securities Act of 1933 (15 U.S.C. § 77q(a)), the 2-year period of this section is the applicable statute of limitations. *Fishman v. Estrin*, 501 F. Supp. 208 (D.D.C. 1980).

The 3-year general fraud statute of limitations set forth in § 12-301(8) is applicable to a securities fraud claim which arose before the decision of *Forrestal Village, Inc. v. Graham*, 551 F.2d 411 (D.C. Cir. 1977), in which the Court of Appeals ruled that the 2-year blue sky

law provision of subsection (e) of this section is applicable to such suits. *Wachovia Bank & Trust Co. v. National Student Mktg. Corp.*, 650 F.2d 342 (D.C. Cir. 1980), cert. denied, 452 U.S. 954, 101 S. Ct. 3099, 69 L. Ed. 2d 965 (1981).

Two-year statute of limitations for claims brought under the District of Columbia's blue sky law applies to plaintiffs' federal securities claim. *Bender v. Rocky Mt. Drilling Assocs.*, 648 F. Supp. 330 (D.D.C. 1986).

**Federal tolling doctrine held inapplicable absent allegation of fraudulent misrepresentation.** — The federal tolling doctrine governing fraudulently concealed causes of action is inapplicable in suit under federal securities laws against accountants where plaintiffs failed to allege in their complaint that accountants' misrepresentations and omissions were fraudulent or that accountants engaged in intentional effort to conceal cause of action which arose from such misrepresentations and omissions. *Houlihan v. Anderson-Stokes, Inc.*, 434 F. Supp. 1324 (D.D.C. 1977).

**Equitable tolling doctrine invoked.** — Evidence held sufficient to invoke the equitable tolling doctrine. *Bergen v. Rothschild*, 685 F. Supp. 1 (D.D.C. 1988).

**Publication of article not sufficient to begin tolling of statute.** — As a matter of law, 1 business journal article challenging the accounting procedures of a reputable firm is insufficient to impute knowledge of fraud to buyers of the securities issued by a client of that accounting firm, and thus publication of the article does not begin to toll the statute of limitations on securities fraud claim. *Wachovia Bank & Trust Co. v. National Student Mktg. Corp.*, 650 F.2d 342 (D.C. Cir. 1980), cert. denied, 452 U.S. 954, 101 S. Ct. 3099, 69 L. Ed. 2d 965 (1981).

**Cited in** *Estate of Grant v. United States News & World Report, Inc.*, 639 F. Supp. 342 (D.D.C. 1986); *Bergen v. Rothschild*, 648 F. Supp. 582 (D.D.C. 1986); *Weiss v. Lehman*, 713 F. Supp. 489 (D.D.C. 1989); *Clouser v. Temporaries, Inc.*, 730 F. Supp. 1127 (D.D.C. 1989).

## § 2-2614. Civil penalties.

(a) Any person who violates any provision of this chapter, or of any rule or order issued hereunder, shall be subject to civil penalty not to exceed \$5,000 for each such violation. Each sale of a security in violation of the provisions of this chapter, or rule or order hereunder, shall constitute a separate offense. The Commission may request the seller to rescind any such sale and to make restitution to the purchaser, and if the seller complies with such request that fact shall be taken into consideration in establishing the civil penalty.

(b) The Commission may by order suspend or revoke any license if it finds that such order is in the public interest and that the licensee has failed to pay any civil penalty imposed pursuant to this section by order of the Commission.

(c) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infraction of this chapter shall be pursuant to subchapters I through III of Chapter 27 of Title 6. (Mar. 5, 1981, D.C. Law 3-133, § 2(f), 27 DCR 4417; Oct. 5, 1985, D.C. Law 6-42, § 407, 32 DCR 4450.)

**Section references.** — This section is referred to in § 43-612.

**Legislative history of Law 3-133.** — Law 3-133, the "Securities Act Amendments, Personnel Act Clarification, and Voluntary Retirement Act of 1980," was introduced in Council and assigned Bill No. 3-273, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on July 29, 1980, and September 16, 1980, respectively. Signed by the Mayor on October 2, 1980, it was assigned Act No. 3-254 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

## § 2-2615. Application of chapter; service of process.

(a) Sections 2-2602, 2-2603(a), 2-2605, and 2-2613 shall apply to persons who sell or offer to sell when:

- (1) An offer to sell is made in the District; or
- (2) An offer to buy is made and accepted in the District.

(b) Sections 2-2604, 2-2603(a), and 2-2605 shall apply to persons who buy or offer to buy when:

- (1) An offer to buy is made in the District; or
- (2) An offer to sell is made and accepted in the District.

(c) For the purpose of this section, an offer to sell or to buy is made in the District, whether or not either party is then present in the District, when the offer:

- (1) Originates from the District; or
- (2) Is directed by the offeror to the District and received at the place to which it is directed (or at any post office in the District in the case of a mailed offer).

(d) For the purpose of this section, an offer to buy or to sell is accepted in the District when acceptance: (1) Is communicated to the offeror in the District; and (2) has not previously been communicated to the offeror, orally or in writing, outside the District. Acceptance is communicated to the offeror in the District, whether or not either party is then present in the District, when the offeree directs it to the offeror in the District reasonably believing the offeror to be in the District and it is received at the place to which it is directed (or to any post office in the District in the case of a mailed acceptance).



(e) An offer to sell or to buy is not made in the District by anything appearing in:

(1) Any bona fide newspaper or other publication of general, regular, and paid circulation, circulated by or on behalf of the publisher in the District, which is not published in the District, or which is published in the District but has had more than two thirds of its circulation outside the District during the past 12 months; or

(2) Any radio or television program received in the District which originates outside of the District.

(f) Any applicant for a license under this chapter shall file with the Commission, in such form as it by rule may prescribe, an irrevocable consent appointing each member of the Commission, or his successor in office, to be his attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against him or his successor, executor, or administrator which shall arise under this chapter, or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who shall have filed such a consent in connection with 1 application or offering need not file another. Service may be made by leaving a copy of the process in the office of the Commission, but it shall not be effective unless:

(1) The plaintiff forthwith shall send notice of the service and a copy of the process by registered mail to the defendant or respondent at his last address on file with the Commission; and

(2) The plaintiff's affidavit of compliance with this subsection shall be filed in the case on or before the return day of the process, if any, or within such further time as the court may allow.

(g) When any person, including any nonresident of the District, shall engage in conduct prohibited or made actionable by this chapter or any rule or order under this chapter and he shall not have filed a consent to service of process under subsection (f) of this section and personal jurisdiction over him cannot otherwise be obtained in the District, that conduct shall be considered equivalent to his appointment of each member of the Commission, or his successor in office, to be his attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against him or his successor, executor, or administrator which shall arise from that conduct and which shall be brought under this chapter or any rule or order under this chapter, with the same force and validity as if served on him personally. Service may be made by leaving a copy of the process in the office of the Commission, but it shall not be effective unless:

(1) The plaintiff forthwith shall send notice of the service and a copy of the process by registered mail to the defendant or respondent at his last-known address or shall take other steps reasonably calculated to give actual notice; and

(2) The plaintiff's affidavit of compliance with this subsection shall be filed in the case on or before the return day of the process, if any, or within such further time as the court may allow.



(h) For the purposes of subsections (f) and (g) of this section, the term "plaintiff" includes the Commission in any suit, action, or proceeding initiated by it.

(i) After service of process under this section, the court, or the Commission in a proceeding before it, shall order such continuance as may be necessary to afford the defendant or respondent reasonable opportunity to defend. (Aug. 30, 1964, 78 Stat. 630, Pub. L. 88-503, § 15; 1973 Ed., § 2-2414; Mar. 5, 1981, D.C. Law 3-133, § 2(f), 27 DCR 4417.)

**Section references.** — This section is referred to in §§ 2-2604 and 43-612.

**Legislative history of Law 3-133.** — See note to § 2-2614.

## § 2-2616. Administration of chapter.

(a) This chapter shall be administered by the Public Service Commission of the District of Columbia. The Commission is hereby authorized to establish such offices with such names or titles, and to appoint and employ such officers and employees and prescribe their duties, as may be necessary to carry out the provisions of this chapter.

(b) Appropriations to carry out the purposes of this chapter are hereby authorized.

(c) A majority of the members of the Commission shall constitute a quorum to do business, and any vacancy shall not impair the power of the remaining members to exercise all the powers of the Commission. In the case of any application, investigation, inquiry, hearing, or proceeding under this chapter, the Commission may designate one of its members or a hearing examiner to examine documents, hear testimony and submit to the Commission the record of testimony, and such documents with his proposed findings and conclusions of fact and law.

(d) The Commission is hereby authorized to make, amend, and rescind such rules, orders, and forms as may be necessary to carry out the provisions of this chapter, including, but not limited to, rules, orders, and forms governing applications and amendments thereto, investigations, inquiries, hearings, and proceedings, and including by rule definitions of any items, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of this chapter. For the purposes of rules and forms, the Commission may classify persons and matters within its jurisdiction and may prescribe different requirements for different classes.

(e) No rule, form, or order may be made, amended, or rescinded, unless the Commission finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter. In prescribing rules and forms, the Commission may cooperate with the securities administrator of any state and the Securities and Exchange Commission with a view to effectuating the policy of this chapter to achieve maximum uniformity in the form and content of license applications, records, and reports, and other documents wherever practicable.

(f) The Commission may by rule or order prescribe:

(1) The form and content of statements, records, reports, and other documents required under this chapter or rules or orders thereunder;

(2) The circumstances under which such statements, records, reports or other documents shall be filed with the Commission; and

(3) Whether any required statements, records, reports, or other documents shall be certified by independent or certified public accountants.

(g) All rules and forms of the Commission made under this chapter shall be published.

(h) No provision of this chapter imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, form, or order of the Commission, notwithstanding that the rule, form, or order may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

(i) A document shall be deemed to be filed or submitted to the Commission when it is received by it during regular business hours.

(j) The Commission shall keep a register of all license applications which are or have ever been effective under this chapter, and all denial, suspension, postponement, or revocation orders entered under this chapter. Such register shall be open for public inspection during regular business hours.

(k) License applications and materials submitted therewith or in connection therewith may be made available to the public under such rules as the Commission may prescribe. Such rules may include, but shall not be limited to, rules prescribing reasonable fees for furnishing photostatic or other copies upon request. The Commission may certify under seal such copy or copies of any document available to the public or any entry in the register, and any copy so certified shall be admitted as evidence with the same effect as the exemplifications of record referred to in § 14-501 of the District of Columbia Code.

(l) The Commission may refer evidence concerning violations of this chapter or of any rule or order under this chapter to the United States Attorney for the District of Columbia who may, with or without such reference, institute criminal proceedings under this chapter. The Commission shall comply with any request of the Attorney General of the United States, the Postmaster General of the United States, the Securities and Exchange Commission, or the United States Attorney for the District of Columbia for any information or evidence coming to it in the administration of the chapter. The Commission in its discretion may refer any information or evidence coming to it in the administration of this chapter to any department or agency of the United States, to the securities administrator of any state, or to any national securities exchange or national securities association registered under the Securities Exchange Act of 1934.

(m) Any hearing held by the Commission pursuant to this chapter shall be public unless the Commission in its discretion and with the consent of all the parties to such hearing order that the hearing be conducted privately. (Aug. 30, 1964, 78 Stat. 632, Pub. L. 88-503, § 16; 1973 Ed., § 2-2415; Mar. 3, 1979, D.C. Law 2-139, § 3205(f), 25 DCR 5740; June 14, 1980, D.C. Law 3-70, § 7(a), 27 DCR 1776; Mar. 5, 1981, D.C. Law 3-133, § 2(f), 27 DCR 4417.)



**Cross references.** — As to effective date of D.C. Law 2-139, see § 1-637.1.

**Section references.** — This section is referred to in §§ 1-637.1 and 43-612.

**Legislative history of Law 2-139.** — Law 2-139, the "District of Columbia Government Comprehensive Merit Personnel Act of 1978," was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October 17, 1978, and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 3-70.** — Law 3-70, the "District of Columbia Fund Accounting Act of 1980," was introduced in Council and assigned Bill No. 3-197, which was re-

ferred to the Committee on Human Services. The Bill was adopted on first and second readings on March 18, 1980 and April 1, 1980, respectively. Signed by the Mayor on April 25, 1980, it was assigned Act No. 3-176 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 3-133.** — See note to § 2-2614.

**References in text.** — The position of "Postmaster General of the United States," referred to in subsection (l) of this section, was abolished and the functions, powers, and duties thereof transferred to the United States Postal Service by § 4(a) of the Act of August 12, 1970, Pub. L. 91-375, 84 Stat. 773.

The Securities Exchange Act of 1934, referred to in subsection (l) of this section, was enacted as the Act of June 6, 1934, 48 Stat. 881, ch. 404.

## § 2-2617. District of Columbia Securities Advisory Committee.

The Mayor of the District of Columbia shall appoint a District of Columbia Securities Advisory Committee which shall consist of 6 members, who shall be residents of the District of Columbia or the State of Maryland or the State of Virginia, at least 2 of whom shall be actively engaged in the securities business and at least 2 of whom shall be members of the bar of the District of Columbia. In no case shall more than 3 members of the Advisory Committee be members of the same political party. The members shall be selected on the basis of their experience and qualifications to advise the Public Service Commission on all phases of the securities business. The members shall be appointed for staggered terms of 3 years each, with 2 members appointed each year, to serve without compensation and eligible for reappointment for additional terms, provided that not more than 2 of the terms are in succession. The duration of the terms of the 1st members appointed hereunder shall be designated by the Mayor at the time of their appointment. The members of the Advisory Committee shall select their own chairman. Meetings of the Advisory Committee shall be held when called by the Chairman of the Public Service Commission and may be attended by members of the said Commission. The Advisory Committee shall give the Public Service Commission the benefit of its advice on any and all matters pertaining to the administration of this chapter, particularly the adoption, amendment or repeal of rules, regulations, and forms provided for herein. (Aug. 30, 1964, 78 Stat. 633, Pub. L. 88-503, § 18; 1973 Ed., § 2-2416; Mar. 5, 1981, D.C. Law 3-133, § 2(f), 27 DCR 4417.)

**Section references.** — This section is referred to in § 43-612.

**Legislative history of Law 3-133.** — See note to § 2-2614.

**Change in government.** — This section

originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Govern-



mental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of

Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 2-2618. Severability.

If any provision of this chapter or the application thereof to any person or circumstance shall be held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are severable. (Aug. 30, 1964, 78 Stat. 633, Pub. L. 88-503, § 19; 1973 Ed., § 2-2417; Mar. 5, 1981, D.C. Law 3-133, § 2(f), 27 DCR 4417.)

**Section references.** — This section is referred to in § 43-612.

**Legislative history of Law 3-133.** — See note to § 2-2614.

## § 2-2619. Change of name of Public Utilities Commission.

The Public Utilities Commission of the District of Columbia established by § 43-401 hereafter shall be known as the "Public Service Commission of the District of Columbia." Wherever reference is made to the Public Utilities Commission of the District of Columbia in any act of Congress, or in any compact authorized by an act of Congress, or in any regulation or order, such reference shall be held to be a reference to the Public Service Commission of the District of Columbia. (Aug. 30, 1964, 78 Stat. 634, Pub. L. 88-503, § 21; 1973 Ed., § 2-2418; Mar. 5, 1981, D.C. Law 3-133, § 2(f), 27 DCR 4417.)

**Section references.** — This section is referred to in §§ 2-2601 and 43-612.

**Legislative history of Law 3-133.** — See note to § 2-2614.

## CHAPTER 26A. INVESTMENT ADVISERS.

Sec.	Sec.
2-2631. Definitions.	2-2641. Investigations and subpoenas.
2-2632. Advisory activities.	2-2642. Injunctions; cease and desist orders.
2-2633. Misleading filings.	2-2643. Rules, forms, orders, and hearings.
2-2634. Unlawful representation concerning registration or exemption.	2-2644. Administrative files and opinions.
2-2635. Registration requirement.	2-2645. Civil liabilities.
2-2636. Registration procedures.	2-2646. Civil penalties.
2-2637. Post-registration provisions.	2-2647. Criminal penalties.
2-2638. Denial, revocation, suspension, bar, censure, cancellation, and withdrawal of registration.	2-2648. Burden of proof.
2-2639. Alternative methods of registration.	2-2649. Scope of the chapter; service of process.
2-2640. Administration.	2-2650. Statutory policy.
	2-2651. Severability.

## § 2-2631. Definitions.

For the purposes of this chapter, the term:

(1) "Commission" means the Public Service Commission of the District of Columbia.

(2) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities. The term "investment adviser" includes financial planners and other persons who, as an integral component of other financially related services, provide the foregoing investment advisory services to others for compensation and as a part of a business or who hold themselves out as providing the foregoing investment advisory services to others for compensation. The term "investment adviser" shall not include:

(A) An investment adviser representative or a person excluded from the definition of investment adviser representative pursuant to paragraph (4) of this section;

(B) A bank, savings institution, or trust company;

(C) A lawyer, accountant, engineer, or teacher whose performance of such services is solely incidental to the practice of that profession;

(D) A broker-dealer or its agent whose performance of these services is solely incidental to the conduct of its business as a broker-dealer and who receives no special compensation for them;

(E) A publisher of any newspaper, news column, newsletter, news magazine, or business or financial publication or service, whether communicated in hard copy form, or by electronic means, or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each client;

(F) A person solely by virtue of such person's services to or on behalf of any "business development company" as defined in section 202(a)(22) of the Investment Advisers Act of 1940 (15 U.S.C. § 80b-2(a)(22)) ("Investment Ad-

visers Act of 1940”) provided the business development company is not an investment company by reason of section 3(c)(1) of the Investment Company Act of 1940 (15 U.S.C. § 80a-3(c)(1)) (“Investment Company Act of 1940”) as both acts were in effect on December 31, 1990;

(G) A personal representative of a decedent’s estate, guardian, conservator, receiver, attorney in fact, trustee in bankruptcy, trustee of a testamentary trust, or a trustee of an inter vivos trust, not otherwise engaged in providing investment advisory services, and the performance of these services is not a part of a plan or scheme to evade registration or the substantive requirements of this chapter;

(H) A licensed real estate agent or broker whose only compensation is a commission on real estate sold;

(I) An individual or company primarily engaged in acting as a business broker whose only compensation is a commission on the sale of a business;

(J) An individual who, as an employee, officer, or director of, or general partner in, another person and in the course of performance of their duties as such, provides investment advice to such other person, or to entities that are affiliates of such other person, or to employee benefit plans of such other person or its affiliated entities, or, with respect to such employee benefit plans, to employees of such other person or its affiliated entities;

(K) Any person who is exempt from registration pursuant to section 203(b)(3) of the Investment Advisers Act of 1940 (15 U.S.C. § 80b-3(b)(3)) or by any rule or regulation promulgated by the United States Securities and Exchange Commission under that section provided that any reference in this paragraph to any statute, rule, or regulation shall be deemed to incorporate said statute, rule, or regulation (and any statute, rule, or regulation referenced therein) effective December 31, 1990;

(L) An employee of a person described in subparagraph (B), (E), (F), (G), (H), or (J) of this paragraph acting on behalf of such person within the scope of their employment; or

(M) Such other persons not within the intent of this paragraph as the Commission may by rule or order designate.

(3) “Investment Advisers Act of 1940” means the federal statute of that name as amended before or after March 17, 1993.

(4) “Investment adviser representative” means any partner, officer, director (or a person occupying a similar status or performing similar functions), or other individual employed by or associated with an investment adviser, except clerical personnel, who:

(A) Makes any recommendations or otherwise renders advice regarding securities directly to clients;

(B) Manages accounts or portfolios of clients;

(C) Determines which recommendations or advice regarding securities should be given; provided, however, if there are more than 5 such persons employed by or associated with an investment adviser, who do not otherwise come within the meaning of subparagraph (A), (B), (C), or (D) of this paragraph, then only the direct supervisors of such persons are deemed to be investment adviser representatives under this paragraph;



(D) Solicits, offers, or negotiates for the sale of or sells investment advisory services; or

(E) Directly supervises investment adviser representatives as defined in subparagraphs (A), (B), and (C) of this paragraph, (unless such investment adviser representatives are already required to register due to their role as supervisors by operation of subparagraph (C) or (D) of this paragraph in the performance of the foregoing activities. (Mar. 17, 1993, D.C. Law 9-216, § 2, 40 DCR 37.)

**Legislative history of Law 9-216.** — Law 9-216, the "Investment Advisers Act of 1992," was introduced in Council and assigned Bill No. 9-495, which was referred to the Committee on Public Services. The Bill was adopted on first and second readings on November 4, 1992,

and December 1, 1992, respectively. Signed by the Mayor on December 21, 1992, it was assigned Act No. 9-345 and transmitted to both Houses of Congress for its review. D.C. Law 9-216 became effective on March 17, 1993.

## § 2-2632. Advisory activities.

(a) It shall be unlawful for any person who receives, directly or indirectly, any consideration from another person for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses, reports, or otherwise:

(1) To employ any device, scheme, or artifice to defraud the other person;

(2) To engage in any act, practice, or course of business which operates, or would operate, as a fraud or deceit upon the other person;

(3) Acting as principal for their own account, knowingly to sell any security to or purchase any security from a client, or acting as broker-dealer for a person other than such client, knowingly to effect any sale or purchase of any security for the account of such client, without disclosing to such client in writing before the completion of such transaction the capacity in which they are acting and obtaining the consent of the client to such transaction. The prohibitions of this subsection shall not apply to any transaction with a customer of a broker-dealer if such broker-dealer is not acting as an investment adviser in relation to such transaction; or

(4) To engage in dishonest or unethical practices as the Commission may define by rule.

(b) In solicitation of advisory clients, it shall be unlawful for any person to make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

(c) Except as may be permitted by rule or order of the Commission, it shall be unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless it provides in writing:

(1) That the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client (unless otherwise provided by subsection (d) or (f) of this section);

(2) That no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract; and

(3) That the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.

(d) Subsection (c)(1) of this section does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date. "Assignment", as used in subsection (c)(2) of this section, includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of 1 or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.

(e) It shall be unlawful for any investment adviser to take or have custody of any securities or funds of any client in contravention of any rule or order of the Commission prohibiting, limiting, or regulating such custody.

(f) The Commission may by rule or order adopt exemptions from subsections (a)(3), (c)(1), (c)(2), and (c)(3) of this section where such exemptions are consistent with the public interest and within the purposes fairly intended by the policy and provisions of this chapter. (Mar. 17, 1993, D.C. Law 9-216, § 3, 40 DCR 37.)

**Section references.** — This section is referred to in §§ 2-2645 and 2-2649.

**Legislative history of Law 9-216.** — See note to § 2-2631.

### § 2-2633. Misleading filings.

It shall be unlawful for any person to make or cause to be made, in any document filed with the Commission or in any proceeding under this chapter, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect. (Mar. 17, 1993, D.C. Law 9-216, § 4, 40 DCR 37.)

**Section references.** — This section is referred to in § 2-2647.

**Legislative history of Law 9-216.** — See note to § 2-2631.

### § 2-2634. Unlawful representation concerning registration or exemption.

(a) Neither the filing of an application for registration pursuant to this chapter nor the registration of a person constitutes a finding by the Commission that any document filed under this chapter is true, complete, and not misleading. Neither any such fact nor the fact that an exemption or exception is available means that the Commission has considered the merits or qualifications of, or recommended, or given approval to any person.

(b) It shall be unlawful to make, or cause to be made, to any prospective customer or client, any representation inconsistent with subsection (a) of this section. (Mar. 17, 1993, D.C. Law 9-216, § 5, 40 DCR 37.)

**Section references.** — This section is referred to in §§ 2-2645 and 2-2649.

**Legislative history of Law 9-216.** — See note to § 2-2631.

## § 2-2635. Registration requirement.

(a) It shall be unlawful for any person to transact business in the District of Columbia ("District") as an investment adviser or as an investment adviser representative unless:

(1) The person is registered under this chapter;

(2) The person's only clients in the District are investment companies as defined in the Investment Company Act of 1940 (15 U.S.C. § 80a-1 et seq.), other investment advisers, dealers, banks, trust companies, savings institutions, savings and loan associations, insurance companies, employee benefit plans with assets of not less than \$1,000,000, governmental agencies or instrumentalities, whether acting for themselves or as trustees with investment control, or other institutional investors as are designated by rule or order of the Commission;

(3) The person has no place of business in the District and during any period of 12 consecutive months does not direct business communications into the District in any manner to more than 10 clients, other than those specified in paragraph (2) of this subsection, whether or not the person or any of the persons to whom the communications are directed is then present in the District; or

(4) The person is an investment adviser representative employed by or associated with an investment adviser exempt from registration under paragraph (2) or (3) of this subsection.

(b) It shall be unlawful for any investment adviser required to be registered to employ or associate an investment adviser representative unless the investment adviser representative is registered under this chapter. The registration of an investment adviser representative is not effective during any period when the representative is not employed or associated with an investment adviser registered under this chapter. When an investment adviser representative begins or terminates employment or association with an investment adviser, the investment adviser shall promptly notify the Commission. No investment adviser representative may be registered with more than 1 investment adviser unless the investment advisers which employ or associate the investment adviser representative are under common ownership or control.

(c) Every registration expires December 31st of each year unless renewed. (Mar. 17, 1993, D.C. Law 9-216, § 6, 40 DCR 37.)

**Section references.** — This section is referred to in §§ 2-2645 and 2-2649.

**Legislative history of Law 9-216.** — See note to § 2-2631.



**§ 2-2636. Registration procedures.**

(a) An investment adviser or investment adviser representative may obtain an initial or renewal registration by filing with the Commission an application together with a consent to service of process pursuant to § 2-2649. The application shall contain whatever information the Commission by rule requires, including:

- (1) The applicant's form and place of organization;
- (2) The applicant's proposed method of doing business;
- (3) The qualifications and business history of the applicant, in the case of an investment adviser, the qualifications and business history of any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the investment adviser;

- (4) Any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony;

- (5) The applicant's financial condition and history; and

- (6) Any information to be furnished or disseminated to any client or prospective client.

(b) If no denial order is in effect and no proceeding is pending under § 2-2638, registration shall become effective at noon of the 30th day after an application is filed. The Commission may by rule or order specify an earlier effective date, and it may by rule or order defer the effective date until noon of the 30th day after the filing of any amendment.

(c) Every applicant for initial or renewal registration shall pay a filing fee which shall be fixed by the Commission. When an application is denied or withdrawn, the Commission shall retain the fee.

(d) A registered investment adviser may file an application for registration of a successor, whether or not the successor is then in existence, for the unexpired portion of the year. There shall be no filing fee. An investment adviser representative shall pay a fee that shall be determined by the Commission when transferring from one investment adviser to another.

(e) The Commission may by rule establish minimum net capital requirements for registered investment advisers, which may include different requirements for those investment advisers who maintain custody of client funds or securities or who have discretionary authority over client funds or securities and those investment advisers who do not.

(f) The Commission may by rule require registered investment advisers who have custody of or discretionary authority over client funds or securities to post surety bonds in amounts up to \$100,000, and may determine their conditions. An appropriate deposit of cash or securities shall be accepted in lieu of any bond so required. No bond may be required of any investment adviser whose minimum net capital, which may be defined of rule, exceeds \$100,000. Every bond shall provide for suit thereon by any person who has a cause of action under § 2-2645 and, if the Commission by rule or order requires, by any person who has a cause of action not arising under this chapter.

Every bond shall provide that no suit may be maintained to enforce any liability on the bond unless brought within the time limitations of § 2-2645(f). (Mar. 17, 1993, D.C. Law 9-216, § 7, 40 DCR 37.)

**Section references.** — This section is referred to in §§ 2-2637 and 2-2639.

**Legislative history of Law 9-216.** — See note to § 2-2631.

**Editor's notes.** — "Section 2-2645(f)", referred to at the end of (f), was substituted for "§ 2-2645(d)" to correct an error in D.C. Law 9-216.

## § 2-2637. Post-registration provisions.

(a) Every registered investment adviser shall make and keep such accounts, correspondence, memoranda, papers, books, and records as the Commission by rule prescribes. All records so required shall be preserved for 3 years unless the Commission by rule prescribes otherwise for particular types of records.

(b) With respect to investment advisers, the Commission may require that certain information be furnished or disseminated as necessary or appropriate in the public interest or for the protection of investors and advisory clients. To the extent determined by the Commission in its discretion, information furnished to clients or prospective clients of an investment adviser pursuant to the Investment Advisers Act of 1940 (15 U.S.C. § 80a-1 *et seq.*) and the rules thereunder may be used in whole or partial satisfaction of this requirement.

(c) Every registered investment adviser shall file such financial reports as the Commission by rule prescribes.

(d) If the information contained in any document filed with the Commission is or becomes inaccurate or incomplete in any material respects, the registrant shall promptly file a correcting amendment unless notification of the correction has been given under § 2-2636.

(e) All the records referred to in subsection (a) of this section are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission, within or outside the District, as the Commission deems necessary or appropriate in the public interest or for the protection of investors. For the purpose of avoiding unnecessary duplication of examinations, the Commission, insofar as it deems practicable in administering this subsection, may cooperate with the securities administrators of other states, the Securities and Exchange Commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934 (15 U.S.C. § 78a *et seq.*). (Mar. 17, 1993, D.C. Law 9-216, § 8, 40 DCR 37.)

**Legislative history of Law 9-216.** — See note to § 2-2631.

**§ 2-2638. Denial, revocation, suspension, bar, censure, cancellation, and withdrawal of registration.**

(a) The Commission may by order deny, suspend, or revoke any registration, or bar or censure any registrant or any officer, director, partner, or persons occupying a similar status or performing similar functions for a registrant, from employment with a registered investment adviser, or restrict or limit a registrant as to any function or activity of the business for which registration is required in the District if it finds:

(1) That the order is in the public interest; and

(2) That the applicant or registrant or, in the case of an investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the investment adviser:

(A) Has filed an application for registration which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(B) Has willfully violated or willfully failed to comply with any provision of this chapter or Chapter 26 of this title or any rule or order under this chapter or Chapter 26 of this title;

(C) Has been convicted, within the past 10 years, of any misdemeanor involving a security or the financial services business, or any aspect of the securities business, or any felony;

(D) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities or financial services business;

(E) Is the subject of an order of the Commission denying, suspending, barring, revoking, restricting, or limiting registration as a broker-dealer, agent, investment adviser, or investment adviser representative;

(F) Is the subject of an adjudication or determination within the past 5 years by a securities, commodities, or other financial services regulatory agency, or an administrator of such laws of another state or a court of competent jurisdiction that the person has violated the Securities Act of 1933 (15 U.S.C. § 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), the Investment Advisers Act of 1940 (15 U.S.C. § 80b-1 et seq.), the Investment Company Act of 1940 (15 U.S.C. § 80a-1 et seq.), the Commodity Exchange Act (7 U.S.C. § 1 et seq.), or the securities or commodities law of any other state or any other financial services regulatory laws as the Commission may designate by rule;

(G) Has engaged in dishonest or unethical practices in the securities or financial services business;

(H) Is insolvent, either in the sense that their liabilities exceed their assets or they cannot meet their obligations as they mature; but the Commission may not enter an order against an investment adviser under this subparagraph without a finding of insolvency as to the investment adviser;



(I) Is not qualified on the basis of such factors as training, experience, and knowledge of the securities business, except as otherwise provided in subsection (b) of this section;

(J) Has failed reasonably to supervise their investment adviser representatives or employees, if they are an investment adviser, to assure their compliance with this chapter; or

(K) Has failed to pay the proper filing fee; but the Commission may enter only a denial order under this clause, and it shall vacate any such order when the deficiency has been corrected.

(b) The Commission may not institute a suspension or revocation proceeding on the basis of a fact or transaction known to it when registration became effective unless the proceeding is instituted within the next 30 days.

(c) The following provisions govern the application of subsection (a)(2) of this section:

(1) The Commission may not enter an order against an investment adviser on the basis of the lack of qualification of any person other than:

(A) The investment adviser if the adviser is an individual; or

(B) An investment adviser representative.

(2) The Commission may not enter an order solely on the basis of lack of experience if the applicant or registrant is qualified by training or knowledge or both.

(3) The Commission shall consider that an investment adviser representative who will work under the supervision of a registered investment adviser need not have the same qualifications as an investment adviser.

(4) The Commission shall consider that an investment adviser or investment adviser representative is not necessarily qualified solely on the basis of experience as a broker-dealer or agent.

(5) The Commission may by rule provide for an examination, including an examination developed or approved by an organization of securities administrators, which examination may be written or oral or both, to be taken by any class or all applicants. The Commission may by rule or order waive the examination requirement as to a person or class of persons if the Commission determines that the examination is not necessary for the protection of advisory clients.

(d) The Commission may by order summarily postpone or suspend registration pending final determination of any proceeding under this section. Upon the entry of the order, the Commission shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an investment adviser representative, that it has been entered and of the reasons therefor, and that within 30 days after the receipt of a written request for a hearing the date for the hearing shall be scheduled. If a hearing is not requested and a hearing is not ordered by the Commission, the order will remain in effect until it is modified or vacated by the Commission. If a hearing is requested or ordered, the Commission, after notice of an opportunity for hearing, may modify or vacate the order or extend it until final determination.

(e) If the Commission finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as an investment adviser or investment adviser representative, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the Commission may by order cancel the registration or application.

(f) Withdrawal from registration as an investment adviser or investment adviser representative shall become effective 30 days after receipt of an application to withdraw or within such shorter period of time as the Commission may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 90 days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the Commission by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the Commission may institute a revocation or suspension proceeding under subsection (a)(2)(B) of this section within 1 year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

(g) No order may be entered under this section, except an order that summarily postpones or suspends registration pending a final determination of any proceeding under this section, without:

(1) Appropriate prior notice to the applicant or registrant (as well as the employer or prospective employer if the applicant or registrant is an investment adviser representative);

(2) Opportunity for hearing; and

(3) Written findings of fact and conclusions of law. (Mar. 17, 1993, D.C. Law 9-216, § 9, 40 DCR 37.)

**Section references.** — This section is referred to in §§ 2-2636 and 2-2639.

**Legislative history of Law 9-216.** — See note to § 2-2631.

## § 2-2639. Alternative methods of registration.

(a) The Commission may by rule or order provide an alternative method of registration by which any investment adviser or investment adviser representative may satisfy the requirements of this chapter by furnishing the information otherwise required to be filed pursuant to this chapter. The Commission may provide for, among other things, alternative filing periods for investment advisers and investment adviser representatives, elimination of the issuance of a paper license, and alternative methods for the payment and collection of initial or renewal filing fees, which shall be known as "alternative filing fees." The alternative filing fees shall be the same as provided in § 2-2636(c).

(b) The Commission may not adopt an alternative method of registration unless its purpose is to facilitate a central registration depository whereby investment advisers and investment adviser representatives can centrally or simultaneously register and pay fees for all states in which they plan to transact business that requires registration. The Commission may enter into



an agreement with or otherwise facilitate an alternative method of registration with any national securities association registered with the Securities and Exchange Commission pursuant to section 15A of the Securities Exchange Act of 1934, or any national association of state securities administrators or similar association to effectuate the provisions of this section.

(c) Nothing in this section shall be construed to prevent the exercise of the authority of the Commission as provided in § 2-2638. (Mar. 17, 1993, D.C. Law 9-216, § 10, 40 DCR 37.)

**Legislative history of Law 9-216.** — See Securities Exchange Act of 1934, referred to note to § 2-2631. in subsection (b), is codified as 15 U.S.C.

**References in text.** — Section 15A of the § 78o-3.

## § 2-2640. Administration.

(a) The Commission may delegate all or part of the authority under this chapter, including, but not limited to, the authority to conduct hearings, and make, execute, and issue final agency orders and decisions.

(b) It shall be unlawful for the Commission or any of its officers or employees to use for personal benefit any information which is filed with or obtained by the Commission and which is not made public. No provision of this chapter authorizes the Commission or any of its officers or employees to disclose any such information except among themselves or when necessary or appropriate in a proceeding or investigation under this chapter. No provision of this chapter either creates or derogates from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the Commission or any of its officers or employees.

(c) All fees provided for under this chapter shall be collected by the Commission and shall be paid over to the Treasury of the District of Columbia to the credit of the General Fund. (Mar. 17, 1993, D.C. Law 9-216, § 11, 40 DCR 37.)

**Legislative history of Law 9-216.** — See note to § 2-2631.

## § 2-2641. Investigations and subpoenas.

(a) The Commission, in its discretion:

(1) May make such public or private investigations within or outside of the District as it deems necessary to determine whether any person has violated or is about to violate any provision of this chapter or any rule or order hereunder, or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder;

(2) May require or permit any person to file a statement in writing, under oath or otherwise as the Commission determines, as to all the facts and circumstances concerning the matter to be investigated; and

(3) May publish information concerning any violation of this chapter or any rule or order hereunder.



(b) For the purpose of any investigation or proceeding under this chapter, the Commission or any officer designated by it may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the Commission deems relevant or material to the inquiry.

(c) In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of competent jurisdiction, upon application by the Commission, may issue to the person an order requiring the person to appear before the Commission, or the officer designated by the person, to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

(d) The Commission may act under subsection (b) of this section or apply under subsection (c) of this section to enforce subpoenas in the District at the request of a securities agency or administrator of any state if the alleged activities constituting a violation for which the information is sought would be a violation of this chapter or any rule hereunder if the alleged activities had occurred in the District. (Mar. 17, 1993, D.C. Law 9-216, § 12, 40 DCR 37.)

**Legislative history of Law 9-216.** — See note to § 2-2631.

## § 2-2642. Injunctions; cease and desist orders.

(a) Whenever it appears to the Commission that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, it may in its discretion bring an action in any court of competent jurisdiction to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order hereunder. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court may not require the Commission to post a bond.

(b)(1) If the Commission determines, after giving notice of an opportunity for a hearing, that any person has engaged in, or is about to engage in, any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, it may order such person to cease and desist from such unlawful act or practice and take such affirmative action as in the judgment of the Commission will carry out the purposes of this chapter.

(2) If the Commission makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under paragraph (1) of this subsection, the Commission may issue a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the Commission shall promptly notify in writing the person subject to the order that the order has been entered, the reasons therefore, and that within 30 days after the receipt of a written request for a hearing the date for the hearing

shall be scheduled to determine whether the order shall become permanent and final. If no hearing is requested and none is ordered by the Commission, the order shall remain in effect until it is modified or vacated by the Commission. If a hearing is requested or ordered, the Commission, after giving notice of an opportunity for a hearing to the persons subject to the order, shall by written findings of fact and conclusions of law, vacate, modify, or make permanent the order.

(3) No order issued under paragraph (1) of this subsection, except an order issued pursuant to paragraph (2) of this subsection, may be entered without prior notice or an opportunity for hearing. The Commission may vacate or modify an order under this subsection upon its finding that the conditions which required such an order have changed and that it is in the public interest to so vacate or modify.

(4) A final order issued pursuant to the provisions of this subsection shall be subject to review as provided by law. (Mar. 17, 1993, D.C. Law 9-216, § 13, 40 DCR 37.)

**Legislative history of Law 9-216.** — See note to § 2-2631.

## **§ 2-2643. Rules, forms, orders, and hearings.**

(a) The Commission may from time to time make, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of this chapter, including rules and forms governing registration, applications, and reports, and define any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of this chapter. For the purpose of rules and forms, the Commission may classify persons, and matters within its jurisdiction, and prescribe different requirements for different classes. In establishing classes as indicated above, the Commission shall take into consideration, among others, the following:

(1) Whether an investment adviser holds customer funds or securities;

(2) The size of investment advisers, including the number and geographical location of branch offices, the number of investment adviser representatives and, in particular, the number of investment adviser representatives under the direct supervision of registered principals of the investment adviser; and

(3) The financial condition of investment advisers, including, but not limited to, net worth, earnings record, and debt structure.

(b) No rule, form, or order may be made, amended, or rescinded unless the Commission finds that the action is necessary or appropriate to the public interest or for the protection of investors and clients and consistent with the purposes fairly intended by the policy and provisions of this chapter. In prescribing rules and forms, the Commission may cooperate with the securities administrators of the other states and the Securities and Exchange Commission with a view to effectuating the policy of this chapter to achieve maximum uniformity in the form and content of registrations, applications, and reports wherever practicable.

(c) The Commission may by rule or order prescribe:

(1) The form and content of financial statements required under this chapter;

(2) The circumstances under which consolidated financial statements shall be filed; and

(3) Whether any required financial statements shall be certified by independent or certified public accountants. All financial statements shall be prepared in accordance with generally accepted accounting practices.

(d) The Commission may by rule or order require the filing of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution to prospective investors, including clients or prospective clients of an investment adviser.

(e) All rules and forms of the Commission shall be published.

(f) No provision of this chapter imposing any liability applies to any act done or omitted in good faith in conformity with any rule, form, or order of the Commission, notwithstanding that the rule, form, or order may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

(g) Every hearing in an administrative proceeding shall be public; provided, however, that the Commission, in its discretion, may grant a request that the hearing be conducted privately under a strong showing of one or more of the following:

(1) That the issues to be raised or evidence to be presented are of such a sensitive, volatile, or inflammatory nature that the mere conduct of a public proceeding would be highly prejudicial to the respondent; or

(2) That the issues to be raised or evidence to be presented are of such a sensitive, volatile, or inflammatory nature that they would be injurious or otherwise prejudicial to the best interests of the citizens of the District without regard to the ultimate disposition of the matter on its merits. (Mar. 17, 1993, D.C. Law 9-216, § 14, 40 DCR 37.)

**Section references.** — This section is referred to in § 2-2645.

**Legislative history of Law 9-216.** — See note to § 2-2631.

## § 2-2644. Administrative files and opinions.

(a) A document is filed when it is received in the office of the Commission Secretary.

(b) The Commission shall keep a register of all applications for registration which are or have been effective under this chapter and all denial, suspension, or revocation orders or similar orders which have been entered under this chapter. The register shall be open for public inspection.

(c) The information contained in or filed with any registration, application, or report may be made available to the public under such rules as the Commission prescribes; provided, however, that the Commission may, for good cause, classify certain documents as “confidential and nonpublic” where the release of such information could be highly prejudicial.



(d) Upon request and at such reasonable charges as it prescribes, the Commission shall furnish to any person photostatic or other copies (certified under its seal of office if requested of any entry in the register) or any document which by rule has not been classified as "confidential and nonpublic." In any proceeding or prosecution under this chapter, any copy so certified is prima facie evidence of the contents of the entry or document certified.

(e) The Commission, in its discretion, may honor requests from interested persons for interpretive opinions upon the payment of a fee established by the Commission. (Mar. 17, 1993, D.C. Law 9-216, § 15, 40 DCR 37.)

**Legislative history of Law 9-216.** — See note to § 2-2631.

## § 2-2645. Civil liabilities.

(a) An action may be brought against any person who:

(1) Engages in the business of advising others, for compensation, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities, in violation of § 2-2632(b), § 2-2634(b), or § 2-2635(a) or (b) (an action pursuant to a violation of § 2-2635(b) may not be maintained except by those persons who directly received advice from the unregistered investment adviser representative), or of any rule or order under § 2-2643(d) which requires the affirmative approval of sales literature before it is used; or

(2) Receives, directly or indirectly, any consideration from another person for advice as to the value of securities or their purchase or sale, whether through the issuance of analyses, reports, or otherwise, and employs any device, scheme, or artifice to defraud such other person or engages in any act, practice, or course of business which operates or would operate as a fraud or deceit on such other person, in violation of § 2-2632(a)(1) or (2).

(b) Any person who is given advice in violation of § 2-2632(a)(1) or (2) may sue to recover the consideration paid for the advice, interest on the consideration at the legal rate as provided under District law from the date of payment of the consideration, actual damages incurred that were proximately caused by the violation, less the amount of any income received as a result of the advice, costs of the action, and reasonable attorneys' fees.

(c) An action based on a violation of § 2-2632(b) may not prevail where the person accused of the violation sustains the burden of proof that they did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist.

(d) Any person who directly or indirectly controls a person liable under subsection (a) of this section, including any partner, officer, or director of such a person, any person occupying a similar status or performing similar functions, any employee or associate of such a person who materially aids in the conduct giving rise to the liability, and any dealer or salesman who materially aids in such conduct, is liable jointly and severally with and to the same

extent as such person, unless they are able to sustain the burden of proof that they did not know, and did not act in reckless disregard of the existence of the facts by reason of which the liability is alleged to exist. There shall be contribution as in cases of contract among the persons found liable.

(e) Any cause of action under this chapter survives the death of any person who might have been a plaintiff or defendant.

(f) No person may sue under this section more than 2 years after the rendering of investment advice in violation of this chapter, except that in the case of a violation of § 2-2632(a)(1) or (2) a person may sue under this section within 2 years after such person discovers or should have discovered, the facts constituting the violation.

(g) No person who has made or engaged in the performance of any contract in violation of any provision of this chapter or any rule or order hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract.

(h) Any condition, stipulation, or provision binding any person receiving any investment advice to waive compliance with any provision of this chapter or any rule or order hereunder is void.

(i) The rights and remedies provided by this chapter are in addition to any other rights or remedies that may exist at law or in equity. (Mar. 17, 1993, D.C. Law 9-216, § 16, 40 DCR 37.)

**Section references.** — This section is referred to in § 2-2636.

**Legislative history of Law 9-216.** — See note to § 2-2631.

## § 2-2646. Civil penalties.

(a) Any person who violates any provision of this chapter, or any rule or order issued hereunder, shall be subject to a civil penalty not to exceed \$5,000 for each violation. Each investment advisory contract, transaction, or activity in violation of the provisions of this chapter shall constitute a separate offense. The Commission may request the investment adviser or investment adviser representative to rescind any such contract or transaction and to make restitution to the user of the investment advisory service, and if the investment adviser or investment adviser representative complies with the request, the Commission shall consider such compliance in determining whether a penalty should be imposed on account of that illegal contract, transaction, or activity and, if so, the amount of the penalty.

(b) The Commission may, by order, suspend or revoke any license if it finds that such order is in the public interest and that the licensee has failed to pay any civil penalty imposed pursuant to this section by order of the Commission. (Mar. 17, 1993, D.C. Law 9-216, § 17, 40 DCR 37.)

**Section references.** — This section is referred to in § 2-2649.

**Legislative history of Law 9-216.** — See note to § 2-2631.

**§ 2-2647. Criminal penalties.**

(a) Any person who willfully violates any provision of this chapter except § 2-2633, or who willfully violates § 2-2633 knowing the statement made to be false or misleading in any material respect, or any rule or regulation thereunder the violation of which is made unlawful or the observance of which is required under the terms of this chapter, or any person who willfully and knowingly makes, or causes to be made, any statement in any application, report, or document required to be filed under this chapter or any rule or regulation thereunder, which statement was false or misleading with respect to any material fact, shall, upon conviction, be fined not more than \$100,000 or imprisoned not more than 5 years, or both; but no person shall be subject to imprisonment under this section for the violation of any rule or regulation if the person proves a lack of knowledge of such rule or regulation. Each of the acts specified shall constitute a separate offense and a prosecution or conviction for 1 offense shall not bar prosecution or conviction for any other offense. No indictment or information may be returned under this chapter more than 5 years after the alleged violation.

(b) The Commission may refer such evidence as is available concerning violations of this chapter or of any rule or order hereunder to the Corporation Counsel of the District of Columbia, who may, with or without a referral, institute the appropriate criminal proceedings under this chapter.

(c) Nothing in this chapter limits the power of the District to punish any person for any conduct which constitutes a crime by statute or at common law. (Mar. 17, 1993, D.C. Law 9-216, § 18, 40 DCR 37.)

**Legislative history of Law 9-216.** — See note to § 2-2631.

**§ 2-2648. Burden of proof.**

In a civil or administrative proceeding brought under this chapter, the burden of proving an exemption or an exception from a definition is upon the person claiming it. In a criminal proceeding brought under this chapter, the District does not have the initial burden of producing evidence to show that the defendant's actions do not fall within the exemptions or exceptions. However, once the defendant introduces evidence to show that the defendant's conduct is within the exemption or exception, the burden of proof that the exemption or exception does not apply shifts to the District. (Mar. 17, 1993, D.C. Law 9-216, § 19, 40 DCR 37.)

**Legislative history of Law 9-216.** — See note to § 2-2631.



**§ 2-2649. Scope of the chapter; service of process.**

(a) Sections 2-2632, 2-2634, 2-2635(a) and (b), and 2-2646 apply when any act instrumental in effecting prohibited conduct is done in the District whether either party is then present in the District.

(b) Every applicant for registration under this chapter shall file with the Commission in such form as it by rule prescribes, an irrevocable consent appointing the Commission or its successor, in office to be the attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against them or their successor, executor, or administrator which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the process in the office of the Commission, but it is not effective unless (i) the plaintiff, who may be the Commission in a suit, action, or proceeding instituted by the plaintiff, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant's or respondent's last address on file with the Commission, and (ii) the plaintiff's affidavit of compliance with the subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(c) When any person, including any nonresident of the District, engages in conduct prohibited or made actionable by this chapter or any rule or order hereunder, and the person has not filed a consent to service of process under subsection (b) of this section and personal jurisdiction over the person cannot otherwise be obtained in the District, that conduct shall be considered equivalent to the appointment of the Commission or its successor, in office to be the attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against the successor, executor, or Commission which grows out of that conduct and which is brought under this chapter or any rule or order hereunder with the same force and validity as if the person was served personally. Service may be made by leaving a copy of the process in the office of the Commission, and it is not effective unless (i) the plaintiff, who may be the Commission in a suit, action, or proceeding instituted by the plaintiff, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant's or respondent's last known address or takes other steps which are reasonably calculated to give actual notice, and (ii) the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(d) When process is served under this section, the court, or the Commission in a proceeding before it, shall order such continuance as may be necessary to afford the defendant or respondent reasonable opportunity to defend. (Mar. 17, 1993, D.C. Law 9-216, § 20, 40 DCR 37.)

**Section references.** — This section is referred to in § 2-2636.

**Legislative history of Law 9-216.** — See note to § 2-2631.

## § 2-2650. Statutory policy.

This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact investment adviser legislation or rules and regulations and to coordinate the interpretation and administration of this chapter with the related federal regulation. Nothing in this chapter shall be construed to limit or preclude the applicability of any provision of the District of Columbia Code. (Mar. 17, 1993, D.C. Law 9-216, § 21, 40 DCR 37.)

**Legislative history of Law 9-216.** — See note to § 2-2631.

## § 2-2651. Severability.

If any provision of this chapter or the application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application. (Mar. 17, 1993, D.C. Law 9-216, § 22, 40 DCR 37.)

**Legislative history of Law 9-216.** — See note to § 2-2631.

CHAPTER 27. VETERINARIANS.

Sec.

2-2701 to 2-2712. [Repealed].

2-2721. Purposes.

2-2722. Definitions.

2-2723. Persons previously licensed.

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2-2725. Board of Veterinary Examiners; duties of Mayor.

2-2726. Fees; expiration date of licenses.

2-2727. Qualifications for issuance of license.

2-2728. License renewal.

Sec.

2-2729. Denial, suspension, or revocation of licenses; grounds; reinstatement.

2-2730. Hearing procedures.

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2-2732. Certification of animal technicians.

2-2733. Exceptions.

2-2734. Prohibited acts.

2-2735. Penalties.

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2-2737. Injunctions.

**§§ 2-2701 to 2-2712. Board of Examiners in Veterinary Medicine — Created; appointment; composition; qualifications; term of office; vacancies; removal; officers; meetings; records; bond; annual report; application for license; collection and disposition of fees; examinations; issuance of licenses; reciprocity; exemptions from examination or fee; appeal from refusal of license; Board of Review; display of license; inspection of place of business; persons regarded as practitioners; exemptions from chapter; revocation or suspension of license; penalties; prosecutions.**

Repealed. Mar. 9, 1983, D.C. Law 4-171, § 20, 29 DCR 5297.

**Legislative history of Law 4-171.** — See note to § 2-2721.

**§ 2-2721. Purposes.**

The purposes of this chapter are to regulate the practice of veterinary medicine in the District of Columbia, to protect the public from the practice of veterinary medicine by unqualified persons, and to protect the public from unprofessional conduct by persons licensed to practice veterinary medicine. (Mar. 9, 1983, D.C. Law 4-171, § 2, 29 DCR 5297.)

**Legislative history of Law 4-171.** — Law 4-171, the "Veterinary Practice Act of 1982," was introduced in Council and assigned Bill No. 4-232, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on September 21, 1982, and October 19,

1982, respectively. Signed by the Mayor on November 19, 1982, it was assigned Act No. 4-249 and transmitted to both Houses of Congress for its review.

**Delegation of authority pursuant to Law 4-171.** — See Mayor's Order 86-117, July 21, 1986.



**§ 2-2722. Definitions.**

As used in this chapter, the term:

(1) "Animal" means any animal other than man and includes fowl, birds, fish, and reptiles, wild or domestic.

(2) "Animal facility" means any fixed or mobile establishment, veterinary hospital, animal hospital, or premises wherein the practice of veterinary medicine or any part thereof is practiced.

(3) "Animal technician" means a person certified by the Mayor to perform the duties specified in § 2-2732.

(4) "Board" means the Board of Veterinary Examiners established by § 2-2725.

(5) "Consumer" means an individual:

(A) Who is not a direct provider of veterinary medical care;

(B) Whose current primary activity is not in the provision of veterinary medical care or the administration of facilities or institutions providing veterinary medical care; and

(C) Who does not receive directly nor indirectly more than 10% of his or her gross annual income from any one or combination of the following:

(i) Fees or other compensation for research into or instruction in the provision of veterinary medical care;

(ii) Entities engaged in the provision of veterinary medical care or in the research or instruction of veterinary medical care;

(iii) Producing or supplying drugs or other articles for individuals or entities to use in the provision of, or research into, or instruction in, the provision of veterinary medical care.

(6) "Council" means the Council of the District of Columbia.

(7) "Direct supervision" means that a veterinarian currently licensed to practice veterinary medicine in the District is available on the premises and within immediate vocal communication of the supervisee.

(8) "District" means the District of Columbia.

(9) "License" means a valid license to practice veterinary medicine in the District.

(10) "Licensed veterinarian" means a person who is currently licensed to practice veterinary medicine in the District.

(11) "Mayor" means the Mayor of the District of Columbia, or the Mayor's designated agent.

(12) "Person" means any individual, firm, partnership, association, or any group or combination thereof acting in concert, whether acting as a principal, trustee, fiduciary, receiver, or any other kind of legal or personal representative; or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of the person.

(13) "Practice of veterinary medicine" means the practice engaged in by anyone:

(A) Who professes publicly to be a veterinary doctor and offers to practice as a veterinary doctor;

(B) Who, for hire, fee, compensation, or reward, promised, offered, received, or expected, either directly or indirectly, diagnoses, prognoses, treats, prescribes any controlled substance medicine or other treatment, prescribes, operates, or manipulates, or applies any apparatus or appliance for the prevention, cure, or relief of any disease, pain, deformity, defect, injury, wound, or physical condition of an animal, or for the prevention of, or to test for the presence of, any disease of an animal, or performs a surgical, medical, or dental procedure, or renders surgical, medical, or dental aid to, for, or upon an animal; or who holds himself or herself out as being legally qualified or authorized to do so; or

(C) Who uses any words, letters, or titles in connection with or under circumstances as to induce the belief that the person so using them is engaged in or legally qualified or authorized to engage in the practice of veterinary medicine. The practice of veterinary medicine does not include any of the activities described in § 2-2732.

(14) "School of veterinary medicine" means any veterinary college or division of a university or college that offers the degree of Doctor of Veterinary Medicine, or its equivalent, and that conforms to the standards required for accreditation by the American Veterinary Medical Association.

(15) "Veterinarian" means a person who is a graduate of a school of veterinary medicine and has received a doctorate degree in veterinary medicine, or its equivalent.

(16) "Veterinary medicine" includes veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine. (Mar. 9, 1983, D.C. Law 4-171, § 3, 29 DCR 5297.)

**Section references.** — This section is referred to in §§ 2-2724 and 2-2734.

**Legislative history of Law 4-171.** — See note to § 2-2721.

## § 2-2723. Persons previously licensed.

Any person licensed to engage in the practice of veterinary medicine in the District under §§ 2-2701 to 2-2712 shall be considered to be licensed under this chapter. (Mar. 9, 1983, D.C. Law 4-171, § 4, 29 DCR 5297.)

**Legislative history of Law 4-171.** — See note to § 2-2721.

## § 2-2724. Animal facility license required.

All individuals establishing, maintaining, or operating an animal facility, as defined in § 2-2722 (2), must be licensed by the Mayor. (Mar. 9, 1983, D.C. Law 4-171, § 5, 29 DCR 5297.)

**Legislative history of Law 4-171.** — See note to § 2-2721.

**§ 2-2725. Board of Veterinary Examiners; duties of Mayor.**

(a) There is established a Board of Veterinary Examiners for the District of Columbia.

(b) The Board shall advise the Mayor with respect to:

(1) The professional and technical aspects of the examining, licensing, registration, and regulation of veterinarians in the District of Columbia;

(2) The regulation, inspection, and registration of all establishments and premises wherein or whereon veterinary medicine is practiced; and

(3) The prescription of reasonable standards of conduct and ethics for the practice of veterinary medicine and for animal technicians.

(c) The Board shall consist of 7 members appointed by the Mayor with the advice and consent of the Council. Two of the Board members shall be consumers. Five of the Board members shall be licensed veterinarians. No full-time or part-time officer or member of the faculty of any school of veterinary medicine shall be eligible for appointment to the Board.

(d) Any person appointed to the Board who is employed by the federal or District governments shall not be entitled to receive additional compensation as a Board member.

(e) The consumer members of the Board shall be residents of the District and shall be at least 18 years of age. They shall have all the powers that other Board members have except those relating to examination for licensure.

(f) The licensed veterinarian members of the Board shall at the time of their appointment and throughout their terms:

(1) Be licensed in the District and be in good standing to engage in the practice of veterinary medicine in the District;

(2) Have had 3 years of experience in the practice of veterinary medicine in the District following licensure; and

(3) Be residents of the District.

(g) Of the members first appointed to the Board of Veterinary Examiners under this chapter, 3 shall serve a term of 3 years, 1 of which shall be a consumer; 3 shall serve a term of 2 years, 1 of which shall be a consumer; and 1 shall serve a term of 1 year.

(h) Members of the Board appointed by the Mayor subsequent to the 1st appointments under this chapter shall serve for a term of 3 years; except, that members of the Board who are appointed to fill vacancies which occur prior to the expiration of a former member's full term shall serve only the unexpired portion of the former member's term.

(i) No member of the Board shall serve more than 2 consecutive full terms. The completion of the unexpired portion of a former member's term shall not constitute a full term for purposes of this subsection.

(j) Any vacancy which occurs in the membership of the Board for any reason, including expiration of a term, removal, resignation, death, disability, or disqualification, shall be filled by a person appointed by the Mayor as provided in subsection (c) of this section. The Mayor shall appoint a new member to fill a vacancy for the unexpired portion of the term after the vacancy occurs.



(k) The Mayor shall designate a Chairperson from the Board members. The Board shall elect other officers as are necessary to conduct its business. The Chairperson of the Board shall preside at all Board meetings and shall be responsible for the performance of all the duties and functions of the Board.

(l) The Mayor shall delegate to the Board those responsibilities which the Mayor deems appropriate.

(m) The Mayor shall issue rules within 120 days of March 9, 1983. The Mayor may amend the rules to carry out the provisions of this chapter, including, but not limited to, standards for animal facilities; such as the grounds, department areas, examination rooms, surgery, laboratory, drug procedures and storage, recordkeeping, and radiology.

(n) The Mayor shall make studies and investigations as the Mayor deems necessary in preparing rules and orders and in assisting in the administration and enforcement of this chapter.

(o) The Mayor shall conduct hearings as provided in § 2-2730, upon written charges that may result in discipline, revocation, suspension, or denial of a license.

(p) The Mayor shall keep a record of all Board meetings and an official register of all animal facilities and all licensed veterinarians, including applicants for licensure.

(q) The Mayor shall periodically inspect all animal facilities.

(r) Members of the Board shall be compensated as provided in § 1-612.8. (Mar. 9, 1983, D.C. Law 4-171, § 6, 29 DCR 5297.)

**Section references.** — This section is referred to in § 2-2722.

**Legislative history of Law 4-171.** — See note to § 2-2721.

**Delegation of authority.** — See Mayor's Order 88-112, May 9, 1988.

**Editor's notes.** — Subsections (b) through (r) of this section are subsections (a) through (q), respectively, as enacted by D.C. Law 4-171.

## § 2-2726. Fees; expiration date of licenses.

(a) The Mayor shall establish, increase, or decrease, fees as may be necessary to cover the costs of administering this chapter. The Mayor shall not revise the fees prior to the Mayor giving a 30-day notice of the intended fee change.

(b) The Mayor may, after a 30-day notice, establish and change, as may be necessary, the expiration date of licenses provided for in this chapter. Upon the change of an expiration date, the renewal fee for licenses shall be prorated on the basis of the time covered. (Mar. 9, 1983, D.C. Law 4-171, § 7, 29 DCR 5297.)

**Legislative history of Law 4-171.** — See note to § 2-2721.

**§ 2-2727. Qualifications for issuance of license.**

(a) The Mayor shall, upon receipt of a properly completed application and the requisite fees, issue a license to engage in the practice of veterinary medicine in the District to any person:

(1) Who is a graduate of a school of veterinary medicine approved by the Mayor;

(2) Who has passed an examination as may be prescribed by the Mayor to determine the person's competence to engage in the practice of veterinary medicine; and

(3) Who has not been found in violation of any of the provisions of § 2-2729.

(b) The Mayor may waive the examination required by subsection (a) (2) of this section and may, upon receipt of a properly completed application and the requisite fees, issue a license to any person who:

(1) Has passed an examination and who is licensed as a veterinarian in any state or territory of the United States wherein the requirements for licensure are substantially the same as those in effect in the District (as determined by the Mayor), and which state or territory admits licensed veterinarians of the District without examination;

(2) Is currently holding a license in good standing as a veterinarian in any state or territory of the United States; and

(3) Meets the qualifications specified in paragraphs (1) and (3) of subsection (a) of this section.

(c) The Mayor shall, upon receipt of a properly completed application and the requisite fees, issue an annual license to engage in the practice of veterinary medicine in the District to any graduate of a foreign school of veterinary medicine who has completed the following:

(1) Has graduated from a school of veterinary medicine;

(2) Has submitted to the Mayor proper credentials as may be determined in regulations issued by the Mayor; and

(3) Has passed a written examination as may be required by the Mayor to determine the person's competency to engage in the practice of veterinary medicine. (Mar. 9, 1983, D.C. Law 4-171, § 8, 29 DCR 5297.)

**Legislative history of Law 4-171.** — See note to § 2-2721.

**§ 2-2728. License renewal.**

(a) Every license issued by the Mayor in accordance with the provisions of this chapter shall be subject to renewal as determined by the Mayor. Any person who engages in the practice of veterinary medicine after the expiration of his or her license and who shall willfully or by neglect fail to renew his or her license shall be in violation of this chapter.

(b) The Mayor may establish continuing education requirements that must be met by licensed veterinarians and all applications for renewal shall be

accompanied by evidence of compliance with continuing education requirements.

(c) The failure of the licensee to furnish evidence required by subsection (b) of this section upon application for renewal shall constitute grounds for revocation, suspension, or refusal to renew such license unless the Mayor determines that the failure to furnish the evidence was the result of excusable neglect. (Mar. 9, 1983, D.C. Law 4-171, § 9, 29 DCR 5297.)

**Legislative history of Law 4-171.** — See note to § 2-2721.

**§ 2-2729. Denial, suspension, or revocation of licenses; grounds; reinstatement.**

(a) The Mayor may suspend, revoke, refuse to issue, renew, or restore a license issued under this chapter if the Mayor finds that the applicant or holder thereof:

(1) Has engaged in any fraud or deceit in procuring or attempting to procure a license provided for pursuant to this chapter;

(2) Has been convicted of a felony or other crime involving moral turpitude;

(3) Is a chronic alcoholic as defined in § 24-522, or is a drug user as defined in § 24-602;

(4) Uses advertising or solicitation which is false, misleading, or which is determined by the Mayor to be unprofessional;

(5) Has demonstrated incompetence or gross negligence in the practice of veterinary medicine;

(6) Has knowingly employed a person who is practicing veterinary medicine unlawfully;

(7) Has practiced fraud or dishonesty in the application or reporting of any tests for animal disease;

(8) Has failed to maintain his premises and equipment in a safe, clean, and sanitary condition;

(9) Has failed to report, as required by law, or has made a false report of, any contagious or infectious disease;

(10) Has been grossly negligent in the inspection of food-stuffs or the issuance of health or inspection certificates;

(11) Has practiced cruelty to animals;

(12) Has had his or her license to practice veterinary medicine in another state revoked or suspended on grounds other than nonpayment of the license fee; or

(13) Has demonstrated unprofessional conduct as specified in rules issued by the Mayor.

(b) Any denial, suspension, or revocation under this section shall be made only upon specific charges in writing and after proper notice and a hearing as provided in § 2-2730.

(c) The Mayor may reinstate a license which has previously been revoked upon application in writing and after an opportunity for a hearing. No appli-



cation for reinstatement of a license shall be accepted by the Mayor before the expiration of at least 1 year following the date on which the applicant's license was revoked. (Mar. 9, 1983, D.C. Law 4-171, § 10, 29 DCR 5297.)

**Section references.** — This section is referred to in §§ 2-2727 and 2-2735.

**Legislative history of Law 4-171.** — See note to § 2-2721.

## § 2-2730. Hearing procedures.

When a written complaint alleging a violation under this chapter has been filed with the Mayor, the Mayor shall initiate an investigation and, if warranted, fix a time and place for a hearing in accordance with § 1-1509. The Mayor shall cause a certified copy of the charges to be served on the respondent by registered mail at least 20 days prior to the hearing. The attendance of witnesses and the production of books, papers, and documents at the hearing may be compelled by subpoena. The Mayor shall follow the provisions of § 1-1509 in conducting hearings under this section. If the respondent is found in violation of this chapter, the Mayor may refuse to issue the respondent a license, or may refuse to renew the license of the respondent, or may revoke or suspend the license of the respondent. (Mar. 9, 1983, D.C. Law 4-171, § 11, 29 DCR 5297.)

**Section references.** — This section is referred to in §§ 2-2725 and 2-2729.

**Legislative history of Law 4-171.** — See note to § 2-2721.

## § 2-2731. Appeal procedures.

Any person aggrieved by any final decision or order of the Mayor denying, suspending, or revoking any license or renewal of a license issued or applied for under this chapter may obtain a review thereof pursuant to § 1-1510. (Mar. 9, 1983, D.C. Law 4-171, § 12, 29 DCR 5297.)

**Legislative history of Law 4-171.** — See note to § 2-2721.

## § 2-2732. Certification of animal technicians.

The Mayor may provide for the certification of animal technicians to perform, in the employ of a person licensed to practice veterinary medicine and under his or her immediate and direct supervision and control, acts relating to maintenance of the health of or treatment of any animal. No person certified as an animal technician may receive compensation for such acts other than such salary as he or she may be paid by the employing veterinarian. No person certified as an animal technician may perform surgery, diagnose or prescribe medication for any animal. (Mar. 9, 1983, D.C. Law 4-171, § 13, 29 DCR 5297.)

**Section references.** — This section is referred to in § 2-2722.

**Legislative history of Law 4-171.** — See note to § 2-2721.

### § 2-2733. Exceptions.

Nothing in this chapter shall be construed as applying to:

- (1) An employee or agent of the federal or District governments while performing his or her official duties; except, that no such employee may be authorized to perform surgical operations;
- (2) A member of the faculty of a school of veterinary medicine while performing his or her regular functions, or a person lecturing or giving instructions or demonstrations at a veterinary school in connection with a continuing education course;
- (3) Experimentation and scientific research in connection with the study and the development of methods and techniques, directly or indirectly related or applicable to the problems or to the practice of veterinary medicine, when conducted under the auspices of the federal or District governments;
- (4) A physician licensed to practice medicine in the District or to the licensed physician's assistant while engaged in educational research under the direct supervision of the licensed veterinarian;
- (5) A person who is a regular student in a school of veterinary medicine performing duties or actions assigned by his or her instructor, or working under direct supervision of a licensed veterinarian during a school vacation period;
- (6) A veterinarian regularly licensed in any state from consulting with a licensed veterinarian in the District;
- (7) The owner of an animal, or the owner's full-time regular employee, from caring for and treating the ills and injuries of any animal belonging to such owner, except where the ownership of the animal was transferred for the purpose of circumventing this chapter;
- (8) Any merchant or manufacturer from selling, at his or her regular place of business, medicine, feed, appliances, or other products used in the prevention or treatment of animal diseases;
- (9) Any person selling or applying any pesticide, insecticide, or herbicide;
- (10) Any person approved by the Mayor to perform animal artificial insemination; or
- (11) Any person engaging in scientific research which reasonably requires experimentation involving animals covered under the provisions of 7 U.S.C. § 2131 et seq. (Mar. 9, 1983, D.C. Law 4-171, § 14, 29 DCR 5297.)

**Section references.** — This section is referred to in § 2-2735.

**Legislative history of Law 4-171.** — See note to § 2-2721.

## § 2-2734. Prohibited acts.

It shall be unlawful for any person in the District to:

(1) Engage in the practice of veterinary medicine unless the person is duly licensed to practice veterinary medicine pursuant to this chapter;

(2) Practice or offer to practice veterinary medicine under any name except the name in which he or she is licensed by the Mayor;

(3) Engage in the practice of veterinary medicine without having his or her license and current renewal card conspicuously displayed in the office in which he or she practices;

(4) Sell or offer to sell a diploma conferring a veterinary medicine degree, a certificate granted for post graduate work, or a license granted pursuant to authority contained in this chapter;

(5) Fraudulently procure a diploma, certificate, or any other evidence of satisfactory completion of the required educational and professional training for becoming a licensee under this chapter; or to use such a fraudulently altered document in order to obtain a license to engage in the practice of veterinary medicine;

(6) Alter, with fraudulent intent, any diploma, certificate, license or any other evidence of satisfactory completion of the required educational or professional training for becoming a licensee under this chapter; or to use such fraudulently altered document in order to obtain a license to engage in the practice of veterinary medicine;

(7) Practice veterinary medicine under a false name, or assume a title, or append or prefix to his or her name letters which falsely represent him or her as having a degree from a school of veterinary medicine, or make use of the words "veterinary college" or "veterinary school" or equivalent words, when not lawfully authorized to do so;

(8) Use, in connection with his or her name, any title, words, abbreviations, or letters in a manner or under circumstances which tend to induce the belief that the person using them is qualified to do any act described in § 2-2722(13), except where such person is a licensed veterinarian;

(9) Impersonate another at any examination held by the Mayor, or knowingly make a false application or misrepresentation in connection with such examination;

(10) Accept any fee, rebate, refund, commission or unearned discount, whether in the form of money or otherwise, as compensation for referring animals to any person in connection with the furnishing of veterinary care or service, diagnosis, treatment, or medication. (Mar. 9, 1983, D.C. Law 4-171, § 15, 29 DCR 5297; Mar. 14, 1985, D.C. Law 5-159, § 10, 32 DCR 30.)

**Legislative history of Law 4-171.** — See note to § 2-2721.

**Legislative history of Law 5-159.** — Law 5-159, the "End of Session Technical Amendments Act of 1984," was introduced in Council and assigned Bill No. 5-540, which was referred to the Committee of the Whole. The Bill

was adopted on first and second readings on November 20, 1984, and December 4, 1984, respectively. Signed by the Mayor on December 10, 1984, it was assigned Act No. 5-224 and transmitted to both Houses of Congress for its review.



§ 2-2735. Penalties.

(a) Any person who violates this chapter, which includes, but is not limited to, §§ 2-2729 and 2-2733, or rules issued pursuant to this chapter, shall, upon conviction thereof, be subject to a fine of not less than \$300 nor more than \$1,000 or imprisonment for not more than 90 days, or both. Each act of unlawful practice shall constitute a separate offense.

(b) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules and regulations issued under the authority of this chapter, pursuant to Chapter 27 of Title 6. Adjudication of any infraction of this chapter shall be pursuant to Chapter 27 of Title 6. (Mar. 9, 1983, D.C. Law 4-171, § 16, 29 DCR 5297; Mar. 8, 1991, D.C. Law 8-237, § 3, 38 DCR 314.)

**Effect of amendments.** — D.C. Law 8-237 added (b).

**Legislative history of Law 4-171.** — See note to § 2-2721.

**Legislative history of Law 8-237.** — Law 8-237, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of 1990," was introduced in Council and assigned

Bill No. 8-203, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-320 and transmitted to both Houses of Congress for its review.

§ 2-2736. Prosecutions.

(a) Prosecution for violation of any provision of this chapter shall be conducted in the name of the District of Columbia in the Superior Court of the District of Columbia by the Corporation Counsel or his or her assistant.

(b) It shall be necessary to prove in any prosecution or hearing under this chapter only a single act prohibited by law without proving a general course of conduct, in order to constitute a violation. (Mar. 9, 1983, D.C. Law 4-171, § 17, 29 DCR 5297.)

**Legislative history of Law 4-171.** — See note to § 2-2721.

§ 2-2737. Injunctions.

Whenever the Mayor finds that any person has engaged in, or is about to engage in, the unlawful practice of veterinary medicine or any act which constitutes or will constitute a violation of any provision of this chapter, the Mayor may make application to the Superior Court of the District of Columbia for an order enjoining such unlawful practice or act and upon a showing by the Mayor that the person has engaged in or is about to engage in any unlawful practice or act, an injunction, restraining order, or other orders as may be

appropriate shall be granted by the Court without bond. (Mar. 9, 1983, D.C. Law 4-171, § 18, 29 DCR 5297.)

**Legislative history of Law 4-171.** — See note to § 2-2721.

## CHAPTER 28. FUNERAL DIRECTORS.

Sec.

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### § 2-2801. Purposes.

The purposes of this chapter are to provide for the licensure and regulation of funeral directors, apprentice funeral directors, and funeral services establishments in the District of Columbia, and to protect the public from fraudulent, unfair, and deceptive practices by persons licensed to provide funeral directing services. (May 22, 1984, D.C. Law 5-84, § 2, 31 DCR 1815.)

**Legislative history of Law 5-84.** — Law 5-84, the "District of Columbia Funeral Services Regulatory Act of 1984," was introduced in Council and assigned Bill No. 5-7, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on February 28,

1984, and March 13, 1984, respectively. Signed by the Mayor on March 29, 1984, it was assigned Act No. 5-120 and transmitted to both Houses of Congress for its review.

**Delegation of authority pursuant to Law 5-84.** — See Mayor's Order 87-186, August 3, 1987.

### § 2-2802. Definitions.

As used in this chapter, the term:

(1) "Adult" means a person who is 18 years of age or older.

(2) "Apprentice funeral director" means any person licensed by the District to engage in learning the practice, or to engage in the practice, of funeral directing by performing funeral directing under the direct or immediate supervision of a full-time funeral director licensed by the District.

(3) "Board" means the Board of Funeral Directors for the District of Columbia.

(4) "Consumer" means a person who makes arrangements with a funeral services establishment for the care and disposition of human remains, including arrangements made prior to the death of a person.

(5) "Council" means the Council of the District of Columbia.

(6) "Direct supervision" means that in those instances when an apprentice funeral director is handling, preparing, or embalming human remains which have become infected by a contagious disease, the apprentice funeral



director must always be supervised by a licensed funeral director who is present and assisting.

(7) "District" means the District of Columbia.

(8) "Full-time employee" means a person whose primary occupation or employment is with a funeral services establishment as a funeral director.

(9) "Funeral director" means any person licensed by the District to perform the practice of funeral directing. As used in this chapter, the term "funeral director" includes the terms "mortician," "undertaker," and "embalmer" as these terms relate to licensure in those jurisdictions where these categories are licensed separately, or under these terms.

(10) "Funeral provider" means any person, partnership, or corporation that sells or offers to sell funeral goods and funeral services to the public.

(11) "Funeral services establishment" means any place or premises in the District devoted to, or wherein is engaged, the business of the care or preparation of human remains for funeral, burial, cremation, or transportation, consisting of a chapel (or a room in which funeral services, including visiting hours prior to disposition, may be conducted) or a preparation room, and where arrangements can be made for funeral services or purchasing funeral supplies including accouterments by the public, and where payment for the rendering of funeral services and supplies can be arranged. The term "funeral services establishment" includes the term "funeral home."

(12) "Human remains" means the remains of a deceased human being or fetus or any part thereof.

(13) "Immediate supervision" means that a funeral director currently licensed to practice funeral directing in the District is available on the premises and within vocal communication of the supervisee.

(14) "License" means an authority from the District which entitles the holder to practice in the District either as a funeral director or apprentice funeral director, or an authority from the District which entitles the holder to own and operate a funeral services establishment.

(15) "Mayor" means the Mayor of the District of Columbia.

(16) "Nationally approved examination" means the examination approved by the Conference of Funeral Service Examining Boards.

(17) "Person" means any natural person.

(18) "Practice of funeral directing" means engaging in the care and disposal of human remains or the preserving by embalming or otherwise of human remains for transportation, funeral services, burial, or cremation.

(19) "Solicitation" means any annoying or unseemly conduct by a licensee, his employees, or agents, such as: (A) Loitering in or about a hospital, sanitarium, personal care home, or other place for the purpose of soliciting the employment of the licensee's services; (B) offering, giving, or promising any gratuity or payment, either in money or property, to any person for information concerning human remains; (C) requesting or recommending that a consumer change from another funeral services establishment to the soliciting party's funeral services establishment; (D) engaging in a dispute with another licensee for the possession of human remains; or (E) initiating contact with the next of kin, relations, friends, or associates of the deceased in order to

provide funeral services or disposition of the deceased without being contacted by the next of kin or his or her representative. The term "solicitation" shall not include general advertising, the sale of burial insurance, or responses to requests for information from consumers. (May 22, 1984, D.C. Law 5-84, § 3, 31 DCR 1815.)

**Cross references.** — As to prohibited practices of funeral directing, see § 2-2811.

**Section references.** — This section is referred to in §§ 2-2805 and 2-2811.

**Legislative history of Law 5-84.** — See note to § 2-2801.

**Delegation of authority pursuant to Law 5-84.** — See Mayor's Order 87-186, August 3, 1987.

### § 2-2803. Board of Funeral Directors; duties of Mayor; duties of Board; compensation of Board.

(a) There is hereby established a Board of Funeral Directors for the District of Columbia.

(b) The Board shall consist of 5 members appointed by the Mayor with the advice and consent of the Council. Three of the members shall be funeral directors licensed to practice in the District; 1 shall be the Director of the Department of Human Services or his or her designee; and 1 shall be a consumer.

(c) The funeral director members of the Board, at the time of their appointment and throughout their terms, shall:

(1) Be licensed in the District and be in good standing to engage in the practice of funeral directing in the District;

(2) Have had at least 3 years experience in funeral directing in the District; and

(3) Be residents of the District.

(d)(1) The consumer member of the Board shall:

(A) Be a resident of the District;

(B) Be at least 18 years of age;

(C) Not be engaged, either directly or indirectly, in the business of the care or preparation of human remains for funeral, burial, cremation, or transportation; and

(D) Not receive, directly or indirectly, more than 10% of his or her gross annual income from any one or a combination of the following:

(i) Fees or other compensation for research into or instruction in mortuary science;

(ii) Entities engaged in the provision of care or preparation of human remains for funeral, burial, cremation, or transportation; or

(iii) Producing or supplying chemicals or other articles for individuals or entities to use in the preparation of, or research into or instruction in the care or preparation of, human remains for funeral, burial, cremation, or transportation.

(2) The consumer member shall have all the powers that other Board members have, except for those relating to the practical examination for licensure.

(e)(1) Except as provided in paragraph (2) of this subsection, the members of the Board shall be appointed by the Mayor for a term of 3 years. This subsection shall not apply to the representative of the Department of Human Services.

(2) Members of the Board who are appointed to fill vacancies which occur prior to the expiration of a former member's full term shall serve only the unexpired portion of the former member's term.

(f) Of the members first appointed under this chapter, 3 shall serve a term of 3 years, 1 of whom shall be the consumer member; and 1 member shall serve a term of 2 years. This subsection shall not apply to the representative of the Department of Human Services.

(g) The Mayor shall designate a chairperson from the members of the Board. The chairperson of the Board shall preside at all meetings of the Board and shall be responsible for the performance of all the duties and functions of the Board.

(h) The Mayor shall delegate to the Board those responsibilities which the Mayor deems appropriate.

(i) The Mayor shall issue within 30 days of May 22, 1984, and may amend from time to time, rules and regulations necessary to carry out the provisions of this chapter.

(j) The Mayor shall make any studies and investigations the Mayor deems necessary to assist in preparing or prescribing rules, regulations, and orders under this chapter, and to assist the administration and enforcement of this chapter.

(k) The Mayor shall conduct hearings pursuant to § 2-2809, upon written charges, that may result in discipline, revocation, suspension, or denial of a license.

(l) The Board shall advise the Mayor with respect to the professional and technical aspects of the examining, licensing, registration, and regulation of funeral services establishments in the District.

(m) Members of the Board shall be compensated pursuant to § 1-612.8. (May 22, 1984, D.C. Law 5-84, § 4, 31 DCR 1815; Apr. 30, 1988, D.C. Law 7-104, § 28, 35 DCR 147.)

**Cross references.** — As to disclosure of financial interests in election campaigns, see § 1-1462. As to licenses for funeral directors, see § 2-2805. As to issuance and renewal of licenses for funeral directors, see § 2-2806. As to terms and conditions of apprenticeship, see § 2-2807. As to grounds for suspension, denial or revocation of license, see § 2-2808.

**Section references.** — This section is referred to in §§ 1-1462, 2-2805, 2-2806, 2-2807, 2-2808 and 2-2815.

**Legislative history of Law 5-84.** — See note to § 2-2801.

**Legislative history of Law 7-104.** — Law 7-104, the "Technical Amendments Act of 1987," was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987 and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

**Delegation of authority pursuant to Law 5-84.** — See Mayor's Order 87-186, August 3, 1987.



§ 2-2804. Fees.

(a) The Mayor shall establish, increase, or decrease the fees necessary to cover the costs of administering this chapter. The Mayor shall not revise the fees except after a 30-day notice.

(b) The Mayor is authorized after a 30-day notice to establish and to change the expiration date of licenses provided for in this chapter. Upon the change of an expiration date, the renewal fee for licenses shall be prorated on the basis of the time covered. (May 22, 1984, D.C. Law 5-84, § 5, 31 DCR 1815.)

Legislative history of Law 5-84. — See 5-84. — See Mayor's Order 87-186, August 3, note to § 2-2801. 1987.

Delegation of authority pursuant to Law

§ 2-2805. Qualifications, applications, and examinations for licensure.

(a) *Funeral director's license.* — Except as provided in subsections (b) and (c) of this section, an applicant for licensure as a funeral director shall furnish satisfactory proof to the Mayor that he or she:

(1) Is at least 18 years of age;

(2) Is a graduate of a high school or possesses the equivalent education as approved by the Mayor;

(3) Is a graduate of an accredited school or college of mortuary science whose course of instruction is not less than 12 months in duration or is composed of not less than 840 hours of study; or has successfully completed a 2-year course of study leading to an associate degree in mortuary science;

(4) Has had at least 2 years of practical experience as an apprentice funeral director if he or she is a graduate of a school or college of mortuary science, or at least 1 year of practical experience if he or she possesses an associate degree in mortuary science; has actually embalmed at least 25 human remains; and has actually conducted or directed at least 25 funerals. This experience shall be verified by the sworn affidavit of each funeral director under whose immediate supervision the apprentice funeral director's duties were performed, indicating the number of human remains embalmed by the applicant and the number of funerals conducted or directed during the period of apprenticeship served under the supervision of the funeral director;

(5) Is fully acquainted with District and federal laws relating to the practice of funeral directing, in a manner to be determined by the Mayor;

(6) Has paid all required fees;

(7) Has passed a nationally approved examination; and

(8) Has met all additional requirements set by the Mayor.

(b) *Special licensing.* — (1) Notwithstanding the requirements set forth in subsection (a) of this section, any funeral director licensed by the District as an undertaker on May 22, 1984, shall be qualified for licensure under this chapter upon meeting the qualifications in paragraphs (1), (5), and (6) of subsection (a) of this section.

(2) Any apprentice funeral director licensed by the District on May 22, 1984, and actively engaged in discharging the duties of a funeral director from January 1, 1973, through January 1, 1983, shall be qualified for licensure as a funeral director upon:

(A) Meeting the qualifications in paragraphs (1), (5), and (6) of subsection (a) of this section;

(B) Passing the nationally approved oral and practical examination; and

(C) Furnishing proof to the Mayor that he or she was discharging the duties of a funeral director during the specified period.

(3) Every person who on August 1, 1947, would have qualified for licensure under § 47-2843 (c), and who has discharged the duties of a funeral director from January 1, 1973, through January 1, 1983, and continues to discharge those duties shall be qualified for licensure as a funeral director upon:

(A) Meeting the qualifications in paragraphs (1), (5), and (6) of subsection (a) of this section;

(B) Passing any oral and practical examination the Mayor may require to determine that the person is fully acquainted with District and federal laws relating to the practice of funeral directing; and

(C) Furnishing proof to the Mayor that he or she was discharging the duties of a funeral director during the specified period.

(4) Applicants to be licensed by paragraphs (2) and (3) of this subsection must comply with the requirements of this chapter within 2 years following the date on which the Mayor establishes the examinations required by paragraph (5) of this subsection.

(5) The Mayor shall, within 6 months of June 19, 1992, establish the necessary examinations to test individuals for licensure as funeral directors under paragraphs (2) and (3) of this subsection. The Mayor shall conduct these examinations at least twice during the 2-year period following the date these examinations are established.

(c) *Reciprocity.* — An applicant for a license by reciprocity to practice as a funeral director in the District must furnish proof to the Mayor that he or she:

(1) Is currently licensed in good standing as a funeral director in a state or territory of the United States wherein the requirements for licensure are substantially equal to or exceed those in effect in the District, and which state or territory admits funeral directors licensed by the District in a like manner; and

(2) Meets the qualifications specified in paragraphs (1), (2), (5), and (6) of subsection (a) of this section.

(d) *Apprentice funeral director's license.* — An applicant for licensure as an apprentice funeral director must furnish proof satisfactory to the Mayor that he or she:

(1) Is at least 18 years of age;

(2) Is a graduate of a recognized high school or possesses the equivalent education as approved by the Mayor;

(3) Is fully acquainted with District and federal laws relating to the practice of funeral directing and embalming, in a manner to be determined by the Mayor;

(4) Has paid all required fees; and

(5) Has successfully completed or is enrolled in an accredited school or college of mortuary science, or has successfully completed or is enrolled in a 2-year course of study leading to an associate degree in mortuary science as required by paragraph (3) of subsection (a) of this section.

(e) *Funeral services establishment license.* — (1) No funeral services establishment shall be operated in the District unless licensed as a funeral services establishment under this chapter.

(2) No individual may be licensed to operate a funeral services establishment unless that individual is also licensed as a funeral director under this chapter.

(3) No corporation, partnership, or other business entity may be licensed to operate a funeral services establishment unless: (A) One of the owners of the funeral services establishment business is licensed as a funeral director under this chapter, and (B) the business entity designates a principal funeral director, licensed under this chapter, who will be responsible for the daily operation of the funeral services establishment. The Mayor shall issue rules and regulations pursuant to § 2-2803(i) to ensure that the corporation, partnership, or other business entity comes into prompt compliance with this paragraph when death or termination of the business relationship removes the owner who is a licensed funeral director or the licensed funeral director responsible for the daily operation of the funeral services establishment.

(4) All funeral services establishments operated in the District shall be built, equipped, arranged, occupied, and maintained in compliance with all applicable District and federal laws.

(5) The Mayor shall provide all health care facilities, as those facilities are defined in § 32-1301(a), a list of all funeral services establishments authorized to receive human remains for care or preparation in accordance with this chapter. The list shall consist only of funeral services establishments licensed and operating in the District of Columbia pursuant to this subsection, shall include the funeral services establishment license number, and shall be updated annually.

(f) *Surviving spouse license.* — (1) Upon the death of the funeral director licensed to operate the funeral services establishment, the Mayor may issue a funeral services establishment license to the funeral director's surviving spouse or estate when the following conditions have been met:

(A) The surviving spouse or estate must notify the Mayor within 10 days of the death of the funeral director of the intent to continue operating the funeral services establishment, and must apply for a funeral services establishment license within 30 days of the death of the funeral director; and

(B) The surviving spouse or estate must identify a funeral director licensed by the District who will be responsible for the day-to-day operation of the funeral services establishment as required by this chapter.



(2) A surviving spouse shall qualify for a license pursuant to this subsection only as long as he or she remains unmarried, except that any surviving spouse presently operating a funeral services establishment on May 22, 1984, is grandfathered.

(3) An estate shall qualify for a license pursuant to this subsection for a period not to exceed 3 years from the date of the funeral director's death.

(g) *Application procedures for licenses.* — (1) Each applicant for a license shall file with the Mayor a complete and true application on a form approved by the Mayor.

(2) Each application for a funeral director's and apprentice funeral director's license shall be accompanied by a recent photograph of the applicant's face, measuring approximately 1" x 1½".

(3) Each application for a license pursuant to paragraph (1) of this subsection shall be sworn to before a notary public.

(4) The Mayor shall review and take action on all applications within a reasonable time after filing. An applicant for any license has the burden of proving compliance with the qualifications and requirements for obtaining the license desired. The Mayor may not presume qualifications and requirements not shown on the application. The Mayor may refuse to act on the application and may require the applicant to submit additional information if the application contains incomplete or evasive information.

(5) The Mayor may deny, after notice and opportunity for hearing, any application if: (A) The applicant has knowingly made or allowed to be made on his behalf any false or misleading statements in connection with his or her application, or (B) the applicant or an agent of the applicant has attempted to improperly influence any member of the Board or officer or employee of the District in the discharge of duties relating to the application.

(6) Each applicant for a funeral director's license for which an examination is required shall make application to take the examination not later than 60 calendar days prior to the date of the examination.

(7) Procedures governing applications for a funeral director's license, an apprentice funeral director's license, a surviving spouse license, and a license to operate a funeral services establishment shall be prescribed in rules and regulations issued by the Mayor pursuant to § 2-2803(i).

(h) *Examination.* — (1) The Mayor shall conduct each year in the District at least 1 nationally approve examination for licensure as a funeral director. The Mayor may schedule additional examinations he or she determines to be necessary. The Mayor shall fix the time and place for each examination.

(2) The funeral director's license examination shall consist of the following 3 parts: (A) Written examination, (B) oral examination, and (C) practical demonstration.

(3) The Mayor may waive the written portion of the examination if an applicant for a funeral director's license has previously passed the written portion of the nationally approved examination as defined by § 2-2802(16).

(4)(A) The written portion of the funeral director's license examination shall consist of questions relating to embalming, anatomy, pathology, bacteriology, chemistry, restorative art, and mortuary administration.

(B) Except as provided in § 2-2803(d), the practical demonstration portion of the funeral director's license examination shall consist of a demonstration by the applicant, in the presence of 2 or more members of the Board, of his or her knowledge and skill in the care, preparation, and preservation of human remains.

(C) The oral portion of the funeral director's license examination shall consist of questions on District and federal laws and regulations governing the practice of funeral directing, including, but not limited to, the following subjects:

- (i) The Anatomical Board, human tissue banks, and anatomical gifts;
- (ii) Vital statistics and containers for cremated human remains;
- (iii) Trafficking in dead bodies;
- (iv) Cemeteries and crematories;
- (v) Licensing of funeral directors; and
- (vi) Penalty provisions.

(5) The oral portion of the funeral director's license examination shall be administered to an applicant in the presence of 2 or more members of the Board, at least 2 of whom shall be licensed funeral directors.

(6) The written portion of the examination for a funeral director's license shall be administered to applicants in the presence of 1 or more members of the Board, or an employee of the District government designated by the Mayor.

(7) The examination shall be administered to applicants for a funeral director's license in accordance with examination procedures established by the Mayor. Each applicant shall be fully advised of the examination procedures prior to the examination and a copy of the procedures shall be included in the notice of authorization to take the examination.

(8) The Mayor shall monitor the implementation of the nationally approved examination for a funeral director's license to ensure that there are no anticompetitive or discriminatory effects. If the Mayor reasonably determines by rulemaking that the examination is producing anticompetitive or discriminatory effects, the Mayor shall develop a local examination and, after proper notice and publication, shall substitute it for the nationally approved examination. (May 22, 1984, D.C. Law 5-84, § 6, 31 DCR 1815; Sept. 15, 1992, D.C. Law 9-150, §§ 2-3, 39 DCR 5019; Mar. 17, 1993, D.C. Law 9-207, § 2, 40 DCR 14.)

**Cross references.** — As to exemptions from human tissue bank provisions, see § 2-1606.

**Section references.** — This section is referred to in § 2-1606.

**Effect of amendments.** — D.C. Law 9-207, in (b)(4), substituted "following the date on which the Mayor establishes the examinations required by paragraph (5) of this subsection" for "of May 22, 1984"; rewrote (b)(5); and added (e)(5).

**Temporary amendments of section.** — Section 2 of D.C. Law 9-150, in (b)(4), substituted "following the date on which the Mayor

establishes the examinations required by paragraph (5) of this subsection" for "of May 22, 1984"; and rewrote (b)(5).

Section 3 of D.C. Law 9-150 added (e)(5).

Section 4(b) of D.C. Law 9-150 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the Funeral Services Regulatory Amendment Act of 1992, whichever occurs first.

**Emergency act amendments.** — For temporary amendment of section, see §§ 2-3 of the Funeral Services Regulatory Emergency Amendment Act of 1992 (D.C. Act 9-230, June 19, 1992, 39 DCR 4919).



**Legislative history of Law 5-84.** — See note to § 2-2801.

**Legislative history of Law 9-150.** — Law 9-150, the "Funeral Services Regulatory Temporary Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-519. The Bill was adopted on first and second readings on June 2, 1992, and June 23, 1992, respectively. Signed by the Mayor on June 26, 1992, it was assigned Act No. 9-232 and transmitted to both Houses of Congress for its review. D.C. Law 9-150 became effective on September 15, 1992.

**Legislative history of Law 9-207.** — Law 9-207, the "Funeral Services Regulatory Amendment Act of 1992," was introduced in

Council and assigned Bill No. 9-559, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 4, 1992, and December 1, 1992, respectively. Signed by the Mayor on December 18, 1992, it was assigned Act No. 9-336 and transmitted to both Houses of Congress for its review. D.C. Law 9-207 became effective on March 17, 1993.

**References in text.** — Former "§ 47-2843(c)," referred to in subdivision (b)(3) of this section, was repealed by § 22 of D.C. Law 5-84.

**Delegation of authority pursuant to Law 5-84.** — See Mayor's Order 87-186, August 3, 1987.

## § 2-2806. Issuance and renewal of licenses.

(a) A license to practice in the District as either a funeral director or apprentice funeral director, or to operate a funeral services establishment shall be issued to each applicant who meets all of the requirements for licensure.

(b) Every license in good standing issued in accordance with this chapter shall expire on a date set by the Mayor and shall be renewed as determined by the Mayor in rules and regulations to be issued pursuant to § 2-2803 (i). On or before the 30th day preceding expiration, the Mayor shall mail an application for renewal to the last known address of each person holding a license in good standing. Failure to receive this application shall not be a proper defense of any person failing to renew any required license.

(c) Each person holding a license in good standing issued pursuant to this chapter, and who wishes to continue practice in the District, shall, on or before the last day of each term, file an application for renewal of the license accompanied by the proper fee.

(d) Except as otherwise provided by this chapter, upon receipt of a renewal application and the proper fee, the Mayor shall issue a renewal for the new license year.

(e) Any person holding a license issued under the provisions of this chapter who fails to file an application for renewal and pay the required fee on or before the last day of any license term, and who, after the first day of the new term, performs in the District the duties of a licensee, shall be found in violation of this chapter. Any license that is not renewed within 30 days of the expiration of its term, shall be terminated.

(f) Any person whose license has expired and who subsequently files an application for renewal shall comply with any terms and conditions prescribed by the Mayor not inconsistent with this chapter. The terms and conditions for restoration of a lapsed license may, in the discretion of the Mayor, include the passing of an examination or payment of a penalty fee, or both. (May 22, 1984, D.C. Law 5-84, § 7, 31 DCR 1815.)



**Section references.** — This section is referred to in § 2-1606.

**Legislative history of Law 5-84.** — See note to § 2-2801.

### **§ 2-2807. Terms and conditions of apprenticeship.**

(a) In order to qualify for a funeral director's license, an apprentice funeral director ("apprentice") must serve an apprenticeship under the supervision of a funeral director licensed by the District.

(b) Notwithstanding the requirement of subsection (a) of this section, an apprentice who is required to serve a 2-year minimum apprenticeship may serve up to 1 year of the apprenticeship outside of the District, if the period of apprenticeship served outside of the District is served under the supervision of a funeral director who has passed a nationally approved examination and is the owner or full-time employee of the funeral services establishment where the apprentice is employed. The Mayor shall issue rules and regulations to implement this subsection pursuant to § 2-2803(i).

(c) An apprentice funeral director may obtain license renewals allowing him to extend his apprenticeship, but the total period of apprenticeship shall not exceed 4 years.

(d) Every apprentice employed in that capacity within the District shall, within 5 days after terminating his or her employment, notify the Mayor of the termination, indicating the date on which the employment ceased.

(e) Every apprentice whose employment under the supervision of a funeral director is terminated shall, immediately upon being employed to work under the supervision of another funeral director, notify the Mayor of the change of employment, indicating the name, address, and license number of the funeral director under whose supervision the apprentice is continuing his or her apprenticeship.

(f) A funeral director shall, upon employing an apprentice or terminating the employment of an apprentice, notify the Mayor in writing accordingly. The notification shall contain the name, address, and license number of the apprentice, as well as the date on which the apprentice was employed or terminated. (May 22, 1984, D.C. Law 5-84, § 8, 31 DCR 1815.)

**Legislative history of Law 5-84.** — See note to § 2-2801.

### **§ 2-2808. Grounds for denial, suspension, or revocation of license.**

(a) The Mayor may refuse to approve or issue a renewal of a license, or may order restrictions, impose a fine, impose conditions on the practice of funeral directing, or suspend or revoke the license of any applicant or licensee if the Mayor finds that the applicant or licensee has:

(1) Engaged in any fraud, deceit, or misrepresentation of any material fact in procuring or attempting to procure any license authorized by this chapter;

(2) Engaged in any unfair, deceptive, or misleading act or practice, or unfair method of competition in the funeral profession, including the illegal fixing or maintaining of prices or the illegal restraint of trade;

(3) Violated any provision of this chapter, or District or federal laws, rules, or regulations pertaining to the practice of funeral directing;

(4) Acted in a manner inconsistent with the health, welfare, or safety of the public as prescribed in rules and regulations to be issued by the Mayor pursuant to § 2-2803(i);

(5) Performed funeral directing services while under the influence of intoxicating liquors or drugs;

(6) Conspired with, or aided or abetted, any person in the violation or circumvention of any provision of this chapter;

(7) Solicited human remains;

(8) Engaged in misrepresentation or fraud in the conduct of the business of a funeral services establishment as a funeral director or as an apprentice funeral director;

(9) Performed embalming services without specific written authorization by the next of kin, except in the case of a demonstrated emergency where the public health, welfare, or safety would demand otherwise;

(10) Charged in excess of actual out-of-pocket expenditures paid by the funeral services establishment for cash advances and other expenditures. A reasonable charge not exceeding the District's legal interest rate per annum on the unpaid balance may be added to any cash advances or expenditures not repaid by the consumer within 30 days; or

(11) Committed gross negligence in the performance of funeral directing services. Acts constituting gross negligence shall be prescribed by the Mayor in rules and regulations issued pursuant to § 2-2803(i).

(b) Any denial, suspension, or revocation under this section shall be made only upon specific charges in writing and after proper notice and a hearing pursuant to § 2-2809. (May 22, 1984, D.C. Law 5-84, § 9, 31 DCR 1815.)

**Legislative history of Law 5-84.** — See note to § 2-2801.

## § 2-2809. Hearing procedures.

When a written complaint alleging a violation under this chapter has been filed with the Mayor, the Mayor shall initiate an investigation and, if warranted, fix a time and place for a hearing pursuant to § 1-1509. The Mayor shall cause a certified copy of the charges to be served on the respondent within a reasonable time prior to the hearing. The attendance of witnesses and the production of books, papers, and documents at the hearing may be compelled by subpoena. The Mayor shall be bound by the rules of procedure and evidence in the conduct of hearings pursuant to § 1-1509, and decisions shall be based upon substantial evidence. If the respondent is found in violation of this chapter, the Mayor may refuse to issue the respondent a license, may refuse to renew the license of the respondent, or may revoke or suspend

the license of the respondent. (May 22, 1984, D.C. Law 5-84, § 10, 31 DCR 1815.)

**Cross references.** — As to Board of Funeral Directors, see § 2-2803. As to grounds for suspension, denial or revocation of license, see § 2-2808.

**Section references.** — This section is referred to in §§ 2-2803 and 2-2808.

**Legislative history of Law 5-84.** — See note to § 2-2801.

**Delegation of authority pursuant to Law 5-84.** — See Mayor's Order 87-186, August 3, 1987.

## § 2-2810. Appeal procedures.

Any person aggrieved by any final decision or order of the Mayor denying, suspending, or revoking any license or renewal of a license issued or applied for under this chapter may obtain a review of the decision pursuant to § 1-1510. (May 22, 1984, D.C. Law 5-84, § 11, 31 DCR 1815.)

**Legislative history of Law 5-84.** — See note to § 2-2801.

## § 2-2811. Prohibited acts.

(a) No person shall engage in the practice of funeral directing in the District of Columbia without being licensed in accordance with this chapter.

(b) No funeral services establishment licensee shall engage in, or permit any employee or agent to engage in, the practice of funeral directing unless the person performing these duties is a funeral director licensed pursuant to this chapter or an apprentice funeral director licensed pursuant to this chapter and under the direct or immediate supervision of a licensed funeral director as required by this chapter. The direct or immediate supervision requirement shall not extend to employees whose duties are limited to the business management activities of the establishment.

(c) No person shall operate a funeral services establishment in the District unless the person is licensed in accordance with this chapter. A separate funeral services establishment license shall be required for each location in the District.

(d) No person shall be eligible to engage in the practice of funeral directing if the person is employed on a part-time or full-time basis by a nursing home, hospital, morgue, or ambulance service. A funeral services establishment may operate a licensed emergency medical transport service if the technicians and drivers of the service work exclusively for the medical transport service.

(e) No person licensed as a funeral director or apprentice funeral director, or licensed to operate a funeral services establishment shall allow any other person to use or practice under his or her license.

(f) No person shall perform funeral directing services at any funeral services establishment in the District unless he or she has on display at the establishment a valid current license to practice at that location. Any license issued pursuant to this chapter shall be good only for the location designated thereon.



(g) No person employed by a nursing home, hospital, morgue, or ambulance service shall inform any funeral services establishment, funeral director, or representative or employee of a funeral services establishment of a death or impending death at the institution where the person is employed for the purpose of facilitating solicitation, as defined in § 2-2802(19), by the funeral services establishment, funeral director, representative, or employee. (May 22, 1984, D.C. Law 5-84, § 12, 31 DCR 1815.)

**Legislative history of Law 5-84.** — See note to § 2-2801.

## **§ 2-2812. Claim of human remains — Funeral services establishment entitled; settlement of disputed claims.**

The funeral services establishment retained by the person standing highest in order of priority of next of kin shall be entitled to take possession of human remains. In the event that 2 or more establishments differ as to their legal right to take possession of human remains, they shall refer the matter to the Mayor or his or her designee for a decision. (May 22, 1984, D.C. Law 5-84, § 13, 31 DCR 1815.)

**Legislative history of Law 5-84.** — See 5-84. — See Mayor's Order 87-186, August 3, 1987.  
note to § 2-2801.

**Delegation of authority pursuant to Law**

## **§ 2-2813. Same — Order of priority of next of kin.**

The oldest adult member of each class shall have prior claim of the human remains over the others in the same class, as follows: Spouse, adult child, father, mother, adult brother, adult sister, adult grandchild, adult nephew or niece, paternal grandparent, maternal grandparent, paternal uncle or aunt, maternal uncle or aunt, adult child of paternal uncle or aunt or adult child of maternal uncle or aunt, paternal great-grandparent, maternal great-grandparent, brother or sister of paternal grandparent, brother or sister of maternal grandparent, kindred of the spouse of the deceased in accordance with the preceding order of priority, or any adult friend or volunteer. (May 22, 1984, D.C. Law 5-84, § 14, 31 DCR 1815.)

**Legislative history of Law 5-84.** — See Dep't of Human Servs., App. D.C., 629 A.2d 1215 (1993).  
note to § 2-2801.

**Cited in** *Clement v. District of Columbia*

## **§ 2-2814. Services requiring direct supervision by funeral director.**

The handling, preparation, or embalming of human remains which carried infectious or contagious diseases must at all times be done by a licensed funeral director, or in the case of an apprentice funeral director, under the

direct supervision of a licensed funeral director. (May 22, 1984, D.C. Law 5-84, § 15, 31 DCR 1815.)

**Legislative history of Law 5-84.** — See note to § 2-2801.

### **§ 2-2815. Courtesy cards for funeral directors licensed in Maryland or Virginia.**

The Mayor shall issue rules and regulations pursuant to § 2-2803(i) which shall prescribe the terms and conditions under which the District may grant courtesy cards to funeral directors duly licensed in the State of Maryland or the Commonwealth of Virginia. Courtesy cards shall be limited to authorizing a funeral director licensed in either state to enter the District for the purposes of filing the death certificate of a deceased person or transporting human remains to the state where the funeral director is licensed in order to perform funeral services. Courtesy cards shall not permit a funeral director licensed in Maryland or Virginia but not licensed in the District to maintain an office or agent in the District or to advertise in any manner in the District as practicing funeral directing in the District. (May 22, 1984, D.C. Law 5-84, § 16, 31 DCR 1815.)

**Legislative history of Law 5-84.** — See note to § 2-2801.

### **§ 2-2816. Change of address of licensee.**

(a) Any person holding a funeral director's license or an apprentice funeral director's license shall, within 5 days after any change of business or residence address, notify the Mayor in writing of the change.

(b) Any person holding a funeral services establishment license shall, within 5 days after any change of ownership or percentage of ownership, or location of establishment, notify the Mayor in writing of the change. (May 22, 1984, D.C. Law 5-84, § 17, 31 DCR 1815.)

**Legislative history of Law 5-84.** — See note to § 2-2801.

### **§ 2-2817. Penalties.**

Any person who violates any provision of this chapter, or rules or regulations issued pursuant to this chapter shall, upon conviction thereof, be subject to a fine of not less than \$300 or more than \$1,000, or imprisonment for not more than 90 days, or both. Each act of unlawful practice shall constitute a distinct and separate offense. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or the rules or regulations issued under the authority of this chapter, pursuant to subchapters I through III of Chapter 27 of Title 6. Adjudication of any infractions shall be pursuant to subchapters I through III of Chapter 27 of

Title 6. (May 22, 1984, D.C. Law 5-84, § 18, 31 DCR 1815; Oct. 5, 1985, D.C. Law 6-42, § 404, 32 DCR 4450.)

**Legislative history of Law 5-84.** — See note to § 2-2801.

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Commit-

tee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

## § 2-2818. Prosecutions.

(a) Prosecution for violation of any provision of this chapter shall be conducted in the name of the District of Columbia in the Superior Court of the District of Columbia by the Corporation Counsel or his or her assistant.

(b) In order to constitute a violation under this chapter, it shall be necessary to prove in any prosecution or hearing only a single act prohibited by law without proving a general course of conduct. (May 22, 1984, D.C. Law 5-84, § 19, 31 DCR 1815.)

**Cross references.** — As to conduct of criminal prosecutions generally, see § 23-101.

**Legislative history of Law 5-84.** — See note to § 2-2801.

## § 2-2819. Injunctions.

Whenever the Mayor finds that any person has engaged in, or is about to engage in, the unlawful practice of funeral directing or apprentice funeral directing, the unlawful operation of a funeral services establishment, or any act which constitutes or will constitute a violation of any provision of this chapter or rules and regulations issued pursuant thereto, the Mayor may make application to the Superior Court of the District of Columbia for an order enjoining unlawful practice or act. Upon a showing by the Mayor that person has engaged in, or is about to engage in, any unlawful practice or act, an injunction, restraining orders, or other orders as may be appropriate may be granted by the Court without bond. (May 22, 1984, D.C. Law 5-84, § 20, 31 DCR 1815.)

**Legislative history of Law 5-84.** — See note to § 2-2801.

**5-84.** — See Mayor's Order 87-186, August 3, 1987.

**Delegation of authority pursuant to Law**



CHAPTER 29. COMMISSION ON BASEBALL.

Sec.

2-2901 to 2-2915. [Expired].

**§§ 2-2901 to 2-2908. Definitions; established; duties; composition; term of office; quorum; vacancies; reimbursement of members' expenses; meetings; employment of consultant authorized; functions; quarterly report; comprehensive report; appropriations; grants; gifts and donations; District of Columbia Commission on Baseball Fund.**

Expired.

**Expiration of chapter.** — Section 10(b) of D.C. Law 5-112, as amended by § 2(d) of D.C. Law 7-11, provided that the act shall expire 6 years after its effective date. D.C. Law 5-112 became effective on Sept. 26, 1984. Sections 2-2901 to 2-2908 expired Sept. 26, 1990.

**Legislative history of Law 5-112.** — Law 5-112, the "District of Columbia Commission on Baseball Act of 1984," was introduced in

Council and assigned Bill No. 5-391, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on June 26, 1984, and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-162 and transmitted to both Houses of Congress for its review.

**§§ 2-2909 to 2-2915. Establishment; composition; vacancies; quorum; meetings; compensation; employment of consultant; comprehensive report; appropriations; grants; gifts and donations; Baseball fund.**

Expired.

**Legislative history of Law 9-54.** — Law 9-54, the "District of Columbia Commission on Baseball Act of 1991," was introduced in Council and assigned Bill No. 9-112, which was referred to the Committee on Public Services. The Bill was adopted on first and second readings on July 2, 1991, and October 1, 1991, respectively. Signed by the Mayor on October 23,

1991, it was assigned Act No. 9-96 and transmitted to both Houses of Congress for its review.

**Expiration of Law 9-54.** — Section 9(b) of D.C. Law 9-54 provided that the act shall expire 2 years after Dec. 10, 1991. D.C. Law 9-54 enacted former §§ 2-2909 through 2-2915.

## CHAPTER 30. COMMISSION ON HOUSING PRODUCTION.

Sec.

2-3001 to 2-3005. [Expired].

**§§ 2-3001 to 2-3005. Definitions; established; duties; composition; qualifications; term of office; vacancies; quorum; meetings and public hearings; access to documents; annual report; reimbursement of members' expenses; funding.**

Expired.

**Cross reference.** — As to Housing Finance Agency, see Chapter 21 of Title 45.

**Expiration of Law 5-110.** — Section 7(b) of D.C. Law 5-110, as amended by § 3 of D.C. Law 6-152 and by § 2 of D.C. Law 7-184, pro-

vided that the act shall expire September 30, 1989. Section 3(b) of D.C. Law 7-184 provides that the act shall expire on the 225th day of its having taken effect.

CHAPTER 31. FIRE PROTECTION STUDY COMMISSION.

Sec.

2-3101. Definitions.

2-3102. Established; composition; officers; term of office; quorum; residency requirement; reimbursement of expenses; meetings; funding; duration.

2-3103. Duties.

2-3104. Restriction on job training program combined with sprinkler installation program.

Sec.

2-3105. Operational space and personnel; agency cooperation.

2-3106. Donations.

2-3107. Interdepartmental Advisory Committee.

2-3108. Notice of Commission and Committee meetings; minutes.

§ 2-3101. Definitions.

For the purpose of this chapter, the term:

(1) "Commission" means the District of Columbia Residential, Commercial, and Institutional Structures Fire Protection Study Commission established by § 2-3102.

(2) "Committee" means the Interdepartmental Advisory Committee established by § 2-3107.

(3) "Council" means Council of the District of Columbia.

(4) "Mayor" means the Mayor of the District of Columbia. (Mar. 16, 1985, D.C. Law 5-183, § 2, 32 DCR 841.)

**Cross references.** — As to Fire Department, see Chapter 3 of Title 4. As to duty of owners of buildings to provide fire safety measures, see § 5-503.

**Legislative history of Law 5-183.** — Law 5-183, the "District of Columbia Residential, Commercial, and Institutional Structures Fire Protection Study Commission Act of 1984," was introduced in Council and assigned Bill No. 5-392, which was referred to the Commit-

tee on the Judiciary. The Bill was adopted on first and second readings on December 4, 1984, and December 18, 1984, respectively. Signed by the Mayor on January 11, 1985, it was assigned Act No. 5-248 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — The reference in paragraph (2) to "§ 2-3107" appeared in D.C. Law 5-183 as "§ 2-3106." The correct reference was inserted editorially, given the sense of the text.

§ 2-3102. Established; composition; officers; term of office; quorum; residency requirement; reimbursement of expenses; meetings; funding; duration.

(a) There is established a District of Columbia Residential, Commercial, and Institutional Structures Fire Protection Study Commission to advise the Council by investigating and reporting on the feasibility of low-cost residential, commercial, and institutional sprinklers as a means of protecting the public from uncontrolled fires in residential, commercial, and institutional structures and by recommending to the Council comprehensive legislation to establish a residential, commercial, and institutional fire sprinkler program appropriate for the District of Columbia.

(b)(1) The Commission shall consist of 15 members.

(2) The members of the Commission shall be residents of the District of Columbia and shall be appointed in the following manner:



(A) One member shall be appointed by each member of the Council;

(B) One member shall be appointed by the Mayor; and

(C) The chairperson of the Council's Committee on the Judiciary shall serve as an additional member and as chairperson of the Commission.

(3) The members of the Commission may elect from among its members other officers considered necessary.

(c) The term of the members shall be 1 year from the 1st meeting of the Commission.

(d) A majority of the members of the Commission shall constitute a quorum. A quorum of the members shall be necessary for the Commission to conduct its business.

(e) The appointment of a member shall terminate if the member becomes a resident of a jurisdiction other than the District of Columbia.

(f) Vacancies in the Commission shall be filled in the same manner as the original appointment.

(g) Members of the Commission shall serve without compensation but shall be reimbursed for all reasonable expenses associated with their service.

(h) The Commission shall meet at least once a month and shall determine the time and place of its meetings. The Council may convene meetings of the Commission at any time. Meetings of the Commission are open to the public consistent with § 1-1504.

(i) The Commission shall annually receive funds according to the appropriations process. These funds may be applied to the costs associated with community hearings, the development of studies and other forms of community interface, and for the hiring of staff.

(j) The Commission shall cease to exist 30 days after submitting the comprehensive report referred to in § 2-3103 (p). (Mar. 16, 1985, D.C. Law 5-183, § 3, 32 DCR 841.)

**Section references.** — This section is referred to in § 2-3101.

**Legislative history of Law 5-183.** — See note to § 2-3101.

## § 2-3103. Duties.

(a) The Commission shall investigate the issues that affect the safety of the residents of the District of Columbia and recommend legislative schemes for eliminating the hazards of fires.

(b) The Commission shall:

(1) Identify the population groups that are at higher than average risk of death or injury due to residential fires;

(2) Identify the neighborhoods where the residents suffer higher than average risk of death or injury due to fires;

(3) Identify the categories of residential buildings in which the incidence of fire occurs at a rate higher than in other residential buildings;

(4) Identify the causes of these fires; and

(5) Identify categories of buildings that should be required to install sprinkler systems.

(c) The Commission shall examine the appropriateness of the use-group classifications set forth in the Building Code approved pursuant to the Construction Codes Approval and Amendment Act of 1986.

(d) The Commission shall study the feasibility of installing the following configurations of sprinklers:

(1) Hallway and stairwell sprinklers with the extension of a single head into each adjacent room;

(2) Sprinklers throughout the building; or

(3) Other configurations as may appear feasible to the Commission.

(e) Based on the District of Columbia's fire experience since 1978, the Commission shall make a finding of the percentage of deaths, injuries, and serious fires that would likely be prevented by each configuration of sprinklers.

(f) The Commission shall make a determination of the long-term monetary savings to the District of Columbia government which is likely to result by installing the sprinkler systems that the Commission recommends.

(g) The Commission shall ascertain the advantages and disadvantages of sprinkler systems fashioned from copper, polyvinyl chloride, and polybutylene.

(h) The Commission shall determine if the water system in high-risk residential neighborhoods of the District of Columbia is adequate to supply a residential sprinkler system directly as well as identify the percentage of homes in high-risk neighborhoods with an adequate system to supply water directly to a residential sprinkler system.

(i) The Commission shall:

(1) Identify low-cost alternatives to supplying a residential sprinkler system directly;

(2) Identify funding mechanisms for large-scale installation of residential and institutional sprinkler systems;

(3) Identify specific funding mechanisms for high-risk, low income neighborhoods and cost-containment methods for installation of the residential sprinklers; and

(4) Identify economic disincentives to the installation of residential sprinklers.

(j) The Commission shall identify what changes would have to be made in the local statutes and regulations to allow residential, commercial, and institutional applications of the systems that the Commission recommends.

(k) The Commission shall identify existing programs for youth employment, adult employment, and job training with which a program of large-scale sprinkler installation might be combined to provide multiple benefits to the residents of the District of Columbia.

(l) The Commission shall determine whether the appropriate District of Columbia government agencies have the power and capacity to carry out necessary inspections and to enforce sprinkler requirements that the Commission may recommend.

(m) The Commission shall investigate other matters appropriate for completing the comprehensive report on the feasibility of residential, commercial, and institutional sprinklers in the District of Columbia.

(n) The Commission shall identify and use the services of all concerned District of Columbia residents, businesses, government agencies, and private agencies with expertise and interest in fire protection.

(o) The Commission shall conduct community hearings to receive information related to its mission.

(p) The Commission shall submit to the Council, 1 year after the 1st meeting of the Commission, a comprehensive report setting forth its findings and recommendations. (Mar. 16, 1985, D.C. Law 5-183, § 4, 32 DCR 841; Mar. 21, 1987, D.C. Law 6-216, § 13(c), 34 DCR 1072; May 10, 1989, D.C. Law 7-231, § 12, 36 DCR 492.)

**Section references.** — This section is referred to in § 2-3102.

**Legislative history of Law 5-183.** — See note to § 2-3101.

**Legislative history of Law 6-216.** — Law 6-216, the "Construction Codes Approval and Amendments Act of 1986," was introduced in Council and assigned Bill No. 6-500, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 18, 1986, and December 16, 1986, respectively. Signed by the Mayor on February 2, 1987, it was assigned Act No. 6-279 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-231.** — Law 7-231, the "Technical Amendments Act of 1988," was introduced in Council and assigned Bill No. 7-586, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-285 and transmitted to both Houses of Congress for its review.

**References in text.** — The "Construction Codes Approval and Amendment Act of 1986," referred to in subsection (c), is D.C. Law 6-216.

## § 2-3104. Restriction on job training program combined with sprinkler installation program.

Any job training programs chosen to be combined with a sprinkler installation program shall perform their job training activities within the District of Columbia. (Mar. 16, 1985, D.C. Law 5-183, § 5, 32 DCR 841.)

**Legislative history of Law 5-183.** — See note to § 2-3101.

## § 2-3105. Operational space and personnel; agency cooperation.

The Mayor shall provide sufficient space for the Commission to operate and may detail personnel to assist the Commission in its work. The Mayor shall also direct all agencies contacted by the Commission to give their full cooperation. (Mar. 16, 1985, D.C. Law 5-183, § 6, 32 DCR 841.)

**Legislative history of Law 5-183.** — See note to § 2-3101.



§ 2-3106. Donations.

The Commission may receive donations and grants, either in money or in kind, intended to promote the work of the Commission and shall hold all donations and grants in trust for the designated purpose. Any deposit of funds shall be made in coordination with the D.C. Comptroller. (Mar. 16, 1985, D.C. Law 5-183, § 7, 32 DCR 841; Feb. 24, 1987, D.C. Law 6-192, § 14, 33 DCR 7836.)

**Legislative history of Law 5-183.** — See note to § 2-3101.

**Legislative history of Law 6-192.** — Law 6-192, the "Technical Amendments Act of 1986," was introduced in Council and assigned Bill No. 6-544, which was referred to the Com-

mittee of the Whole. The Bill was adopted on first and second readings on November 5, 1986, and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

§ 2-3107. Interdepartmental Advisory Committee.

(a)(1) There is established an Interdepartmental Advisory Committee to assist the Commission in its work.

(2) The Committee shall consist of representatives of the following agencies:

- (A) The Fire Department of the District of Columbia;
- (B) The Corporation Counsel of the District of Columbia;
- (C) The Department of Housing and Community Development;
- (D) The Department of Employment Services;
- (E) The District of Columbia Department of Finance and Revenue; and
- (F) The Department of Public Works.

(b) The chairperson of the Commission shall be an ex officio member and chairperson of the Committee. The Committee, or particular segments of the Committee, shall convene when the chairperson considers necessary and appropriate, but not less than once quarterly. The meeting place of the Committee shall change periodically so that meetings are held at least once in each ward of the city during the existence of the Committee. Meetings of the Committee shall be open to the public.

(c) Each agency member of the Committee shall cooperate with the Commission to the fullest extent, shall make available to the Commission the personnel and the resources that the Commission reasonably requires, and shall provide without charge data analysis as the Commission reasonably requests within 30 days of the Commission's request. (Mar. 16, 1985, D.C. Law 5-183, § 8, 32 DCR 841.)

**Section references.** — This section is referred to in § 2-3101.

**Legislative history of Law 5-183.** — See note to § 2-3101.

**§ 2-3108. Notice of Commission and Committee meetings; minutes.**

At least 15 days notice to the public of meetings of the Commission and the Committee shall be provided by advertising in at least 3 local newspapers, through public service announcements, and publication in the District of Columbia Register. Copies of the minutes of meetings of the Commission and the Committee shall be provided on a quarterly basis to each member of the Council and the Mayor. (Mar. 16, 1985, D.C. Law 5-183, § 9, 32 DCR 841.)

**Legislative history of Law 5-183.** — See note to § 2-3101.

CHAPTER 32. LITTER AND SOLID WASTE REDUCTION.

Sec. 2-3201. Litter and Solid Waste Reduction Commission.	Sec. 2-3204. Annual report by Commission.
2-3202. Duties of Department and Commission; scope of program.	2-3205. Reimbursement of Commission members' expenses; office space, supplies, and personnel.
2-3203. Commission on Litter and Solid Waste Reduction Fund.	

§ 2-3201. Litter and Solid Waste Reduction Commission.

(a) There is established a Litter and Solid Waste Reduction Commission ("Commission") which shall propose a comprehensive plan for preventing and reducing litter and solid waste, and shall advise the Department of Public Works ("Department") on the implementation of the comprehensive litter and solid waste reduction plan.

(b) The Commission shall be comprised of 21 members, with 1 member appointed by each member of the Council of the District of Columbia ("Council"), 1 member appointed by the President of the Board of Education of the District of Columbia, 4 members appointed by the Mayor of the District of Columbia ("Mayor"), and 3 members appointed by the chairperson of the Committee on Public Works of the Council of the District of Columbia.

(c) The 4 members appointed by the Mayor shall be selected according to the following scheme:

- (1) One member to represent the Department of Public Works;
- (2) One member to represent the Office of Business and Economic Development; and
- (3) Two members to represent businesses within the District of Columbia.

(d) One of the members appointed by the chairperson of the Council committee with legislative oversight concerning litter and solid waste shall chair the Commission.

(e)(1) The Council-appointed members shall serve for 3-year terms and other members shall serve for 2-year terms.

(2) Vacancies shall be filled in the same manner as the original appointment to the office that became vacant.

(3) The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

(f) A majority of the members of the Commission shall be a quorum, which shall exist before the Commission may conduct business.

(g) The Commission shall meet at least once every 2 months. The chairperson of the Commission may convene the members for a meeting after reasonably attempting to inform each member of the time, the place, and the purpose of the meeting. (Feb. 21, 1986, D.C. Law 6-84, § 2, 32 DCR 7287; Oct. 7, 1987, D.C. Law 7-31, § 5, 34 DCR 3789.)



**Cross references.** — As to authorization for regulations by Council and Mayor in certain cases, see § 1-315. As to air pollution control, see subchapter I of Chapter 9 of Title 6.

**Section references.** — This section is referred to in §§ 6-3202 and 6-3404.

**Legislative history of Law 6-84.** — Law 6-84, the "Litter and Solid Waste Act of 1985," was introduced in Council and assigned Bill No. 6-290, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on November 5, 1985, and November 19, 1985, respectively. Signed

by the Mayor on November 27, 1985, it was assigned Act No. 6-109 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-31.** — Law 7-31, the "Boards and Commissions Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-139, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 14, 1987 and May 5, 1987, respectively. Signed by the Mayor on June 1, 1987, it was assigned Act No. 7-26 and transmitted to both Houses of Congress for its review.

## § 2-3202. Duties of Department and Commission; scope of program.

(a) The Department shall work along with businesses, with charitable organizations, and with the Commission to implement a comprehensive litter and solid waste reduction and recycling program to improve the appearance of the local environment.

(b) The Commission, with full cooperation from the Department, shall monitor the progress of the comprehensive litter and solid waste reduction and recycling program.

(c) The litter and solid waste reduction and recycling program shall include, but not be limited to, the following activities:

(1) A summer youth project which employs teenagers to clean, during the summer, areas selected by the Department;

(2) A neighborhood blitz which would be a special clean-up program that would take place at least every 3 months in the dirtiest neighborhoods and alleys;

(3) An education program for teaching youth of all ages about the collection of litter and the recycling of solid waste;

(4) A planting project for growing flowers, trees, and grass throughout the District of Columbia, particularly in barren areas;

(5) A program for cleaning vacant lots and for cleaning lots where vacant buildings owned by the District of Columbia are located;

(6) The establishment of recycling centers; and

(7) Recommendations for administrative and legislative action to beautify the District of Columbia.

(8) The development of a comprehensive educational and promotional campaign on recycling for generators of commercial and residential solid waste. (Feb. 21, 1986, D.C. Law 6-84, § 3, 32 DCR 7287; Mar. 16, 1989, D.C. Law 7-226, § 19(b), (c), 36 DCR 595.)

**Legislative history of Law 6-84.** — See note to § 2-3201.

**Legislative history of Law 7-226.** — Law 7-226, the "D.C. Solid Waste Management and Multi-Material Recycling Act of 1988," was introduced in Council and assigned Bill No. 7-378, which was referred to the Committee on

Public Works. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 10, 1989, it was assigned Act No. 7-301 and transmitted to both Houses of Congress for its review.

**§ 2-3203. Commission on Litter and Solid Waste Reduction Fund.**

(a) A Commission on Litter and Solid Waste Reduction Fund ("Fund") shall be established as a separate bank account by the Commission to receive all funds from whatever source derived. All funds generated by this Commission shall be deposited in the Fund, in coordination with the D.C. Comptroller.

(b) The Commission is authorized to solicit, accept, and expend funds, gifts, and donations to carry out the purposes of this chapter.

(c) Any funds of the Commission, from whatever source derived, shall be for the sole use of the Commission and shall be deposited as soon as practicable in the Fund.

(d) The Commission shall submit to the Mayor and to the Council a bi-monthly statement of its receipts and disbursements from the Fund.

(e) Any money remaining in the Fund or other assets belonging to the Commission upon the termination of the Commission shall be paid over into the General Fund of the District as general purpose revenues after the obligations of the Commission have been satisfied. (Feb. 21, 1986, D.C. Law 6-84, § 4, 32 DCR 7287; Feb. 24, 1987, D.C. Law 6-192, § 9, 33 DCR 7836.)

**Legislative history of Law 6-84.** — See note to § 2-3201.

**Legislative history of Law 6-192.** — Law 6-192, the "Technical Amendments Act of 1986," was introduced in Council and assigned Bill No. 6-544, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 5, 1986,

and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — In subsection (a) of this section, "Reduction" was inserted in the first sentence to correct an omission in D.C. Law 6-84.

**§ 2-3204. Annual report by Commission.**

The Commission shall report each year to the Council and to the Mayor about progress in implementing the litter and solid waste reduction program and about the status of the Fund. (Feb. 21, 1986, D.C. Law 6-84, § 5, 32 DCR 7287.)

**Legislative history of Law 6-84.** — See note to § 2-3201.

**§ 2-3205. Reimbursement of Commission members' expenses; office space, supplies, and personnel.**

(a) Commission members may be reimbursed from the Fund for expenses reasonably related to the Commission's official duties in compliance with government guidelines.

(b) The Mayor shall also make available to the Commission office space,

supplies, and necessary support personnel to accomplish its mission. (Feb. 21, 1986, D.C. Law 6-84, § 6, 32 DCR 7287.)

**Legislative history of Law 6-84.** — See note to § 2-3201.



## DISTRICT BOARDS AND COMMISSIONS

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*Subchapter I. Definitions; Scope.*

**§ 2-3301.1. General definitions.**

For the purposes of this chapter, the term:

(1) "Board" means the Board of Dentistry, the Board of Dietetics and Nutrition, the Board of Medicine, the Board of Nursing, the Board of Nursing Home Administration, the Board of Occupational Therapy, the Board of Optometry, the Board of Pharmacy, the Board of Physical Therapy, the Board of Podiatry, the Board of Professional Counseling, the Board of Psychology, or the Board of Social Work, established by this chapter, as the context requires.

(2) "Collaboration" means the process in which health professionals jointly contribute to the health care of patients with each collaborator performing actions he or she is licensed or otherwise authorized to perform pursuant to this chapter. Within this definition:

(A) "General collaboration" means that each collaborator is available to the other collaborator for consultation either in person or by a communication device, but need not be physically present on the premises at the time the actions are performed.

(B) "Direct collaboration" means that each collaborator is available on the premises and within vocal communication, either directly or by a communications device, of the other collaborator.

(C) "Immediate collaboration" means that each collaborator is physically present in the room where the actions are being performed and is performing the actions or guiding and directing the performance of the actions.

(3) "Corporation Counsel" means the Corporation Counsel of the District of Columbia.

(4) "Council" means the Council of the District of Columbia.

(5) "Day" means calendar day unless otherwise specified in this chapter.

(6) "District" means the District of Columbia.

(7) "Health occupation" means a practice that is regulated under the authority of this chapter.

(8) "Health professional" means a person licensed under this chapter or permitted by this chapter to practice a health occupation in the District.

(9) "Impaired health professional" means a health professional who is unable to perform his or her professional responsibilities reliably due to a mental or physical disorder, excessive use of alcohol, or habitual use of any narcotic or controlled substance or any other drug in excess of therapeutic amounts or without valid medical indication.

(10) "Mayor" means the Mayor of the District of Columbia.

(11) "Person" means an individual, corporation, trustee, receiver, guardian, representative, firm, partnership, society, school, or other entity.

(12) "Protocol" means a written agreement between an advanced registered nurse and a collaborating physician, osteopath, or dentist, as required by subchapter VI of this chapter, which shall outline, if necessary, the diagnostic and therapeutic approaches to be considered, and which shall outline actions to be taken in providing medical care to patients in accordance with the minimum levels of collaboration required by this chapter, except when the parties agree to establish higher levels of collaboration for specific actions or circumstances.

(13) "State" means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(14) "Superior Court" means the Superior Court of the District of Columbia. (Mar. 25, 1986, D.C. Law 6-99, § 101, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(a), 39 DCR 3824.)

**Section references.** — This section is referred to in § 21-501.1.

**Effect of amendments.** — D.C. Law 9-126, in (1), inserted "the Board of Professional Counseling".

**Legislative history of Law 6-99.** — Law 6-99, the "District of Columbia Health Occupations Revision Act of 1985," was introduced in Council and assigned Bill No. 6-317, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 17, 1985, and January 14, 1986, respectively. Signed by the Mayor on January 28, 1986, it was assigned Act No. 6-127 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-126.** — See note to § 2-3302.13.

**Delegation of authority pursuant to Law**

**6-99.** — See Mayor's Order 86-110, July 18, 1986.

**Interpretation by Board of Medicine.** — The Board of Medicine's interpretation of the statute is binding on the court unless it is plainly erroneous or conflicts with the language or purpose of the statute. *Joseph v. District of Columbia Bd. of Medicine*, App. D.C., 587 A.2d 1085 (1991).

**Cited in** *Mannan v. District of Columbia Bd. of Medicine*, App. D.C., 558 A.2d 329 (1989); *Davidson v. District of Columbia Bd. of Medicine*, App. D.C., 562 A.2d 109 (1989); *Donahue v. District of Columbia Bd. of Psychology*, App. D.C., 562 A.2d 116 (1989); *Roberts v. District of Columbia Bd. of Medicine*, App. D.C., 577 A.2d 319 (1990); *Salama v. District of Columbia Bd. of Medicine*, App. D.C., 578 A.2d 693 (1990); *Greenlee v. Board of Medicine*, 813 F. Supp. 48 (D.D.C. 1993).



**§ 2-3301.2. Definitions of health occupations.**

For the purposes of this chapter, the term:

(1) "Practice of acupuncture" means the insertion of needles, with or without accompanying electrical or thermal stimulation, at a certain point or points on or near the surface of the human body to relieve pain, normalize physiological functions, and treat ailments or conditions of the body. The practice of acupuncture by a nonphysician acupuncturist shall be carried out in general collaboration with a licensed physician or osteopath.

(2) "Practice of advanced registered nursing" means the performance of advanced-level nursing actions by a nurse-midwife, a nurse-anesthetist, or a nurse-practitioner certified pursuant to this chapter which, by virtue of post-basic specialized education, training, and experience, are proper to be performed. The advanced registered nurse may perform actions of nursing diagnosis and nursing treatment of alterations of the health status. The advanced registered nurse may also perform actions of medical diagnosis and treatment, prescription, and other functions which are identified in subchapter VI of this chapter and carried out in accordance with the procedures required by this chapter.

(3)(A) "Practice of chiropractic" means the location and analysis of displaced vertebrae through spinal X-rays and techniques of examination by physical means and by the use of noninvasive instrumentation, and the application of specific, localized force to the spinal region to correct the vertebral displacement. The practice of chiropractic shall not include the use of drugs, surgery, or injections, but may include noninvasive ancillary procedures authorized by rules and regulations issued pursuant to this chapter.

(B) Nothing in this paragraph shall be construed as preventing or restricting the services or activities of any individual engaged in the lawful practice of cosmetology or massage, provided that the individual does not represent by title or description of services that he or she is a chiropractor.

(4)(A) "Practice of dental hygiene" means the performance of any of the following activities in accordance with the provisions of subparagraph (B) of this paragraph:

(i) A preliminary dental examination; a complete prophylaxis, including the removal of any deposit, accretion, or stain from the surface of a tooth or a restoration; or the polishing of a tooth or a restoration;

(ii) The charting of cavities during preliminary examination, prophylaxis, or polishing;

(iii) The application of a medicinal agent to a tooth for a prophylactic purpose;

(iv) The taking of a dental X-ray;

(v) The instruction of individuals or groups of individuals in oral health care; and

(vi) Any other functions included in the curricula of approved educational programs in dental hygiene.

(B) A dental hygienist may perform the activities listed in subparagraph (A) of this paragraph only under the general supervision of a licensed

dentist, in his or her office or any public school or institution rendering dental services. The Mayor may issue rules identifying specific functions authorized by subparagraph (A)(vi) of this paragraph and may require higher levels of supervision for the performance of these functions by a dental hygienist. The license of a dentist who permits a dental hygienist, operating under his or her supervision, to perform any operation other than that permitted under this paragraph, may be suspended or revoked, and the license of a dental hygienist violating this paragraph may also be suspended or revoked, in accordance with the provisions of this chapter.

(C) For the purpose of subparagraph (B) of this paragraph, the term "general supervision" means the performance by a dental hygienist of procedures permitted by subparagraph (A) of this paragraph based on instructions given by a licensed dentist, but not requiring the physical presence of the dentist during the performance of these procedures.

(5) "Practice of dentistry" means:

(A) The diagnosis, treatment, operation, or prescription for any disease, disorder, pain, deformity, injury, deficiency, defect, or other physical condition of the human teeth, gums, alveolar process, jaws, maxilla, mandible, or adjacent tissues or structures of the oral cavity, including the removal of stains, accretions, or deposits from the human teeth;

(B) The extraction of a human tooth or teeth;

(C) The performance of any phase of any operation relative or incident to the replacement or restoration of all or a part of a human tooth or teeth with an artificial substance, material, or device;

(D) The correction of the malposition or malformation of the human teeth;

(E) The administration of an appropriate anesthetic agent, by a dentist properly trained in the administration of the anesthetic agent, in the treatment of dental or oral diseases or physical conditions, or in preparation for or incident to any operation within the oral cavity;

(F) The taking or making of an impression of the human teeth, gums, or jaws;

(G) The making, building, construction, furnishing, processing, reproduction, repair, adjustment, supply or placement in the human mouth of any prosthetic denture, bridge, appliance, corrective device, or other structure designed or constructed as a substitute for a natural human tooth or teeth or as an aid in the treatment of the malposition or malformation of a tooth or teeth;

(H) The use of an X-ray machine or device for dental treatment or diagnostic purposes, or the giving of interpretations or readings of dental X-rays; or

(I) The performance of any of the clinical practices included in the curricula of accredited dental schools or colleges or qualifying residency or graduate programs.

(6)(A) "Practice of dietetics and nutrition" means the application of scientific principles and food management techniques to assess the dietary or nutritional needs of individuals and groups, make recommendations for short-

term and long-term dietary or nutritional practices which foster good health, provide diet or nutrition counseling, and develop and manage nutritionally sound dietary plans and nutrition care systems consistent with the available resources of the patient or client.

(B) Nothing in this paragraph shall be construed as preventing or restricting the practices, services, or activities of dietetic technicians and dietetic assistants working under the supervision of a licensed dietitian or nutritionist, other health professionals licensed pursuant to this chapter, or other persons who in the course of their responsibilities offer dietary or nutrition information or deal with nutritional policies or practices on an occasional basis incidental to their primary duties, provided that they do not represent by title or description of services that they are dietitians or nutritionists.

(7) "Practice of medicine" means the application of scientific principles to prevent, diagnose, and treat physical and mental diseases, disorders, and conditions and to safeguard the life and health of any woman and infant through pregnancy and parturition.

(8)(A) "Practice of nursing home administration" means the administration, management, direction, or the general administrative responsibility for an institution or part of an institution that is licensed as a nursing home.

(B) Within the meaning of this paragraph, the term "nursing home" means a 24-hour inpatient facility, or distinct part thereof, primarily engaged in providing professional nursing services, health-related services, and other supportive services needed by the patient or resident.

(9)(A) "Practice of occupational therapy" means the evaluation and treatment of individuals whose ability to manage normal daily functions is threatened or impaired by developmental deficits, the aging process, poverty and cultural differences, physical injury or illness, or psychological and social disability, utilizing task-oriented activities to prevent or correct physical or emotional disabilities and enhance developmental and functional skills. Specific therapeutic and diagnostic techniques used in occupational therapy include:

- (i) Self-care and other activities of daily living;
- (ii) Developmental, perceptual-motor, and sensory integrative activities;
- (iii) Training in basic work habits;
- (iv) Prevocational evaluation and treatment;
- (v) Fabrication and application of splints;
- (vi) Selection and use of adaptive equipment, and exercise and other modalities to enhance functional performance; and
- (vii) Performing and interpreting manual muscle and range of motion tests.

(B) An individual licensed as an occupational therapy assistant pursuant to this chapter may assist in the practice of occupational therapy under the supervision of or in consultation with a licensed occupational therapist.

(C) Nothing in this paragraph shall be construed as preventing or restricting the practices, services, or activities of an occupational therapy aide who works only under the direct supervision of an occupational therapist, and



whose activities do not require advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

(10)(A) "Practice of optometry" means the application of the scientific principles of optometry in the examination of the eye and visual system to detect defects or abnormal conditions; the prescription or use of lenses, prisms, or ocular exercises to correct or alleviate defects or abnormal conditions of the eye or visual system; the use of diagnostic pharmaceutical agents in accordance with the provisions of this paragraph as an aid to the detection of visual defects or abnormal conditions; and the referral of patients to licensed physicians for the medical diagnosis and treatment of abnormal conditions.

(B) The Mayor shall issue rules identifying the diagnostic pharmaceutical agents which may be used by optometrists pursuant to this paragraph, if he or she determines that the use of diagnostic pharmaceutical agents by optometrists would be in the best interest of the consuming public.

(C) An individual licensed to practice optometry pursuant to this chapter may use diagnostic pharmaceutical agents only if certified to do so by the Board of Optometry in accordance with the provisions of § 2-3302.7.

(D) Nothing in this chapter shall be construed to authorize optometrists to use pharmaceutical agents for therapeutic purposes.

(E) Nothing in this paragraph shall be construed as preventing or restricting the practice, services, or activities of a licensed physician or an optician to provide eyeglasses or lenses on the prescription of a licensed physician or optometrist, or a dealer to sell eyeglasses or lenses, provided that the optician or dealer does not represent by title or description of services that he or she is an optometrist.

(11)(A) "Practice of pharmacy" means the interpretation and evaluation of prescription orders; the compounding, dispensing, and labeling of drugs and devices, and the maintenance of proper records therefor; the responsibility of advising, where regulated or otherwise necessary, of therapeutic values and content, hazards, and use of drugs and devices; and the offering or performance of those acts, services, operations, and transactions necessary in the conduct, operation, management, and control of a pharmacy.

(B) Within the meaning of this paragraph, the term:

(i) "Pharmacy" means any establishment or institution, or any part thereof, where the practice of pharmacy is conducted; drugs are compounded or dispensed, offered for sale, given away, or displayed for sale at retail; or prescriptions are compounded or dispensed.

(ii) "Prescription" means any order for a drug, medicinal chemical, or combination or mixtures thereof, or for a medically prescribed medical device, in writing, dated and signed by an authorized health professional, or given orally to a pharmacist by an authorized health professional or the person's authorized agent and immediately reduced to writing by the pharmacist or pharmacy intern, specifying the address of the person for whom the drug or device is ordered and directions for use to be placed on the label.

(12) "Practice of physical therapy" means the independent evaluation of human disability, injury, or disease by means of noninvasive tests of neuro-

muscular functions and other standard procedures of physical therapy, and the treatment of human disability, injury, or disease by therapeutic procedures, rendered on the prescription of or referral by a licensed physician, osteopath, dentist, or podiatrist, or by a licensed registered nurse certified to practice as an advanced registered nurse as authorized pursuant to subchapter VI of this chapter, embracing the specific scientific application of physical measures to secure the functional rehabilitation of the human body. These measures include the use of therapeutic exercise, therapeutic massage, heat or cold, air, light, water, electricity, or sound for the purpose of correcting or alleviating any physical or mental disability, or preventing the development of any physical or mental disability, or the performance of noninvasive tests of neuromuscular functions as an aid to the detection or treatment of any human condition.

(13) "Practice by physician assistants" means the performance, in collaboration with a licensed physician or osteopath, of acts of medical diagnosis and treatment, prescription, preventive health care, and other functions which are authorized by the Board of Medicine pursuant to § 2-3302.3.

(14) "Practice of podiatry" means the diagnosis, treatment, or prevention of any ailment of the human foot by medical, surgical, or mechanical means, but does not include:

(A) The amputation of the foot;

(B) The administration of an anesthetic agent other than a local one; or

(C) The general medical treatment of any systemic disease causing manifestations in the foot.

(15) "Practice of practical nursing" means the performance of actions of preventive health care, health maintenance, and the care of persons who are ill, injured, or experiencing alterations in health processes, requiring a knowledge of and skill in nursing procedures gained through successful completion of an approved educational program in practical nursing.

(15A)(A) "Practice of professional counseling" means engaging in counseling activities, for compensation, by a person who represents by title or description of services that he or she is a "professional counselor" or "licensed professional counselor".

(B) For the purposes of this paragraph, the term "professional counselor" or "licensed professional counselor" means a person trained in counseling and guidance services, with an emphasis on individual and group guidance and counseling designed to assist individuals in achieving effective personal, social, educational, and career development objectives and adjustment.

(C) Nothing in subparagraph (B) of this paragraph shall be construed as preventing or restricting the practices, services, or activities of:

(i) A professional counselor employed by and working in accordance with the rules of the District of Columbia Board of Education ("Board of Education");

(ii) Any person employed as a professional counselor by an academic institution or research laboratory if the service offered by the person is within the scope of his or her employment, is related to the person's education, re-



search, and training, and is provided to the employing organization or is offered to another academic institution or research laboratory; or

(iii) A professional counselor employed by, or in a position funded by, the District or a private nonprofit organization sponsored or funded by a community-based organization.

(D) Any person who is employed in accordance with subparagraph (C) of this paragraph and who is also engaged in private practice shall be required to obtain a license.

(16)(A) "Practice of psychology" means the application of established scientific methods and principles, including the principles of psychophysiology, learning, perception, motivation, emotions, organizational and social behaviors for the purpose of understanding, assessing, treating, explaining, predicting, preventing, or influencing behavior; the application of psychological methods and procedures for interviewing, counseling, psychotherapy, including behavior therapy, behavior modification, behavior medicine, or hypnotherapy; or the application of psychological methods or procedures for constructing, administering, or interpreting tests of intelligence, mental abilities and disorders, neuropsychological functioning, aptitudes, interests, attitudes, personality characteristics, emotions, or motivations.

(B) Nothing in this paragraph shall be construed as preventing or restricting the practice, services, or activities of:

(i) An individual bearing the title of psychologist in the employ of any academic institution or research laboratory, if the services are offered within the scope of employment and are provided only within the confines of the organization or are offered to like organizations, and if the services do not include psychotherapy; or

(ii) A school psychologist employed by and working in accordance with the regulations of the District of Columbia Board of Education.

(17) "Practice of registered nursing" means the performance of acts requiring substantial specialized knowledge, judgment, and skill based upon the principles of the biological, physical, behavioral, and social sciences in:

(A) The observation, assessment, and recording of physiological and behavioral signs and symptoms of health, disease, and injury, including the performance of examinations and testing and their evaluation for the purpose of differentiating normal from abnormal;

(B) The provision of direct and indirect registered nursing services of a therapeutic, preventive, and restorative nature in response to an assessment of the patient's requirements;

(C) The performance of services, counseling, and education for the safety, comfort, personal hygiene, and protection of patients, the prevention of disease and injury, and the promotion of health in individuals, families, and communities;

(D) The administration of nursing services within a health-care facility, including the delegation of direct nursing functions and the evaluation of the performance of these functions;

(E) The education and training of persons in the direct nursing care of patients; or



(F) The pursuit of nursing research to improve methods of practice.

(18)(A) "Practice of social work" means rendering or offering to render professional services to individuals, families, or groups of individuals that involve the diagnosis and treatment of psychosocial problems according to social work theory and methods. Depending upon the level at which an individual social worker is licensed under this chapter, the professional services may include, but shall not be limited to, the formulation of psychosocial evaluation and assessment, counseling, psychotherapy, referral, advocacy, mediation, consultation, research, administration, education, and community organization.

(B) Nothing in this paragraph shall be construed to authorize any person licensed as a social worker under this chapter to engage in the practice of medicine. (Mar. 25, 1986, D.C. Law 6-99, § 102, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(b), 39 DCR 3824.)

**Section references.** — This section is referred to in §§ 2-2002 and 2-3309.1.

**Effect of amendments.** — D.C. Law 9-126 inserted (15A).

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 9-126.** — See note to § 2-3302.13.

**"Practice of medicine."** — It was not plainly erroneous for the Board of Medicine to

determine that a doctor, who gave false testimony, as an expert witness, engaged in diagnosis within the meaning of the act and was therefore in the practice of medicine when he gave the false report. *Joseph v. District of Columbia Bd. of Medicine*, App. D.C., 587 A.2d 1085 (1991).

**Cited in** *Donahue v. District of Columbia Bd. of Psychology*, App. D.C., 562 A.2d 116 (1989).

## § 2-3301.3. Scope of chapter.

(a) This chapter does not limit the right of an individual to practice a health occupation that he or she is otherwise authorized to practice under this chapter, nor does it limit the right of an individual to practice any other profession that he or she is authorized to practice under the laws of the District.

(b) The practices of health occupations regulated by this chapter are not intended to be mutually exclusive.

(c) This chapter shall not be construed to prohibit the practice of a health occupation by an individual enrolled in a recognized school or college as a candidate for a degree or certificate in a health occupation, or enrolled in a recognized postgraduate training program provided that the practice is:

(1) Performed as a part of the individual's course of instruction, or as a postgraduate prerequisite for licensure;

(2) Under the supervision of a health professional who is either licensed to practice in the District or qualified as a teacher of the practice of the health occupation by the board charged with the regulation of the health occupation;

(3) Performed at a hospital, nursing home, or health facility operated by the District or federal government, a health education center, or other health-care facility considered appropriate by the school or college; and

(4) Performed in accordance with procedures established by the board charged with the regulation of the health occupation.

(d) Nothing in this chapter shall be construed to require licensure for or to otherwise regulate, restrict, or prohibit individuals from engaging in the practices, services, or activities set forth in the paragraphs of this subsection if the individuals do not hold themselves out, by title, description of services, or otherwise, to be practicing any of the health occupations regulated by this chapter. Nothing in this subsection shall be construed as exempting any of the following categories from other applicable laws and regulations of the District or federal government:

(1) Any minister, priest, rabbi, officer, or agent of any religious body or any practitioner of any religious belief engaging in prayer or any other religious practice or nursing practiced solely in accordance with the religious tenets of any church for the purpose of fostering the physical, mental, or spiritual well-being of any person;

(2) Any person engaged in the care of a friend or member of the family, including the domestic administration of family remedies, or the care of the sick by domestic servants, housekeepers, companions, or household aids of any type, whether employed regularly or because of an emergency or illness, or other volunteers;

(3) Any individual engaged in the lawful practice of audiology, speech pathology, X-ray technology, laboratory technology, or respiratory therapy;

(4) An orthotist or prosthetist engaged in fitting, making, or applying splints or other orthotic or prosthetic devices;

(5) Any individual engaged in the practice of cosmetology, the practice of nontherapeutic massage, or the operation of a health club;

(6) Any individual engaged in the commercial sale or fitting of shoes or foot appliances; or

(7) Marriage and family therapists, marriage counselors, art therapists, drama therapists, attorneys, or other professionals working within the standards and ethics of their respective professions. (Mar. 25, 1986, D.C. Law 6-99, § 103, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(c), 39 DCR 3824.)

**Effect of amendments.** — D.C. Law 9-126, in (d)(7), deleted "family counselors, child counselors," following "marriage counselors".

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 9-126.** — See note to § 2-3302.13.

**Cited in** *Donahue v. District of Columbia Bd. of Psychology*, App. D.C., 562 A.2d 116 (1989).

## § 2-3301.4. Persons licensed under prior law.

(a) Except as expressly provided to the contrary in this chapter, any person licensed, registered, or certified by any agency of the District established or continued by any statute amended, repealed, or superseded by this act is considered for all purposes to be licensed, registered, or certified by the appropriate health occupations board established under this chapter for the duration of the term for which the license, registration, or certification was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this chapter.

(b) Except as provided to the contrary in this chapter, an individual who was originally licensed, registered, or certified under a provision of law that



has been deleted by this act continues to meet the education and experience requirements as if that provision had not been deleted.

(c) Each employee of the Commission on Mental Health Services who was employed at St. Elizabeths Hospital prior to October 1, 1987, and who accepted employment with the District government on October 1, 1987, without a break in service, shall, within 27 months of appointment by the District government, meet all licensure requirements. If the employee does not meet all licensure requirements, the employee shall be issued a limited license subject to the provisions, limitations, conditions, or restrictions that shall be determined by the appropriate board or commission. The limited license shall not exceed the term of employment with the Commission on Mental Health Services. (Mar. 25, 1986, D.C. Law 6-99, § 104, 33 DCR 729; Oct. 18, 1989, D.C. Law 8-40, § 3, 36 DCR 5756.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 8-40.** — Law 8-40, the "Commission on Mental Health Services Employees Retention Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-104, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 27, 1989 and July 11, 1989, respectively.

Signed by the Mayor on July 27, 1989, it was assigned Act No. 8-69 and transmitted to both Houses of Congress for its review.

**References in text.** — "This act," referred to near the middle of subsections (a) and (b), is D.C. Law 6-99.

**Cited in** *Donahue v. District of Columbia Bd. of Psychology*, App. D.C., 562 A.2d 116 (1989); *Roberts v. District of Columbia Bd. of Medicine*, App. D.C., 577 A.2d 319 (1990).

## *Subchapter II. Establishment of Health Occupation Boards and Advisory Committees; Membership; Terms.*

### **§ 2-3302.1. Board of Dentistry.**

(a) There is established a Board of Dentistry consisting of 7 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of dentistry and dental hygiene.

(c) Of the members of the Board, 5 shall be dentists licensed in the District, 1 shall be a dental hygienist licensed in the District, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

(f) The Board shall provide advice to the Mayor concerning limitations, which the Mayor may impose by rule, on the number of dental hygienists who may be supervised by 1 dentist, provided that the limit may not be reduced below the ratio of 2 dental hygienists to 1 dentist, and provided that this limitation shall not apply to dentists or dental hygienists who are employees



of, or operating pursuant to a contract with, the District or federal government. (Mar. 25, 1986, D.C. Law 6-99, § 201, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(a), 34 DCR 3789.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 7-31.** — Law 7-31, the "Boards and Commissions Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-139, which was re-

ferred to the Committee of the Whole. The Bill was adopted on first and second readings on April 14, 1987 and May 5, 1987, respectively. Signed by the Mayor on June 1, 1987, it was assigned Act No. 7-26 and transmitted to both Houses of Congress for its review.

## § 2-3302.2. Board of Dietetics and Nutrition.

(a) There is established a Board of Dietetics and Nutrition to consist of 3 members appointed by the Mayor.

(b) The Board shall regulate the practice of dietetics and nutrition.

(c) Of the members of the Board, 1 shall be a licensed dietitian, 1 shall be a licensed nutritionist who is not a dietitian, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 1 shall be appointed for a term of 2 years, and 1 shall be appointed for a term of 3 years. (Mar. 25, 1986, D.C. Law 6-99, § 202, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

## § 2-3302.3. Board of Medicine; Advisory Committees on Acupuncture, Chiropractic, and Physician Assistants.

(a)(1) There is established a Board of Medicine to consist of 11 members appointed by the Mayor with the advice and consent of the Council.

(2) The Board shall regulate the practice of medicine, the practice of acupuncture with the advice of the Advisory Committee on Acupuncture, the practice of chiropractic with the advice of the Advisory Committee on Chiropractic, and the practice by physician assistants with the advice of the Advisory Committee on Physician Assistants.

(3) Of the members of the Board, 7 shall be physicians licensed to practice in the District, 3 shall be consumer members, and 1 shall be the Commissioner of Public Health.

(4) In selecting nominees to the Board, the Mayor shall consult with appropriate officials of professional medical societies and schools of medicine located in the District, and shall submit nominees whose professional training and experience provide a representative sample of the medical specialties practiced in the District.

(5) Except as provided in paragraph (6) of this subsection, members of the Board shall be appointed for terms of 3 years. This paragraph shall not apply

to the Commissioner of Public Health who shall serve for the duration of his or her term as Commissioner.

(6) Of the members initially appointed under this section, 3 shall be appointed for a term of 1 year, 3 shall be appointed for a term of 2 years, and 4 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

(7) The Mayor shall appoint an executive director who shall be a full-time employee of the District to administer and implement the orders of the Board in accordance with this chapter and rules and regulations issued pursuant to this chapter.

(8) The Board shall provide recommendations to the Mayor for his consideration in developing and issuing rules authorizing:

(A) The practice of acupuncture in accordance with guidelines approved by the Advisory Committee on Acupuncture;

(B) The practice of chiropractic in accordance with guidelines approved by the Advisory Committee on Chiropractic; and

(C) The practice by physician assistants in accordance with guidelines approved by the Advisory Committee on Physician Assistants.

(a-1)(1) The Board shall waive the educational and examination requirements for any applicant for licensure as a physician assistant who can demonstrate, to the satisfaction of the Board, that he or she has performed the function of a physician assistant, as defined in this chapter and rules issued pursuant to this chapter, on a full-time or substantially full-time basis continuously for at least 36 months immediately preceding March 25, 1986, and is qualified to do so on the basis of pertinent education, training, experience, and demonstrated current competence, provided that application for the license is made within 12 months of July 25, 1990.

(2) An applicant licensed under paragraph (1) of this subsection shall be eligible for license renewal on the same terms as any other licensed physician assistant.

(b)(1) There is established an Advisory Committee on Acupuncture to consist of 3 members appointed by the Mayor.

(2) The Advisory Committee on Acupuncture shall develop and submit to the Board guidelines for the licensing of acupuncturists and the regulation of the practice of acupuncture in the District.

(3) Of the members of the Advisory Committee on Acupuncture, 1 shall be a physician licensed in the District who has training and experience in the practice of acupuncture, 1 shall be a nonphysician acupuncturist licensed in the District, and 1 shall be the Commissioner of Public Health or his or her designee.

(4) The Advisory Committee on Acupuncture shall submit initial guidelines to the Board within 180 days of March 25, 1986, and shall subsequently meet at least annually to review the guidelines and make necessary revisions for submission to the Board.

(c)(1) There is established an Advisory Committee on Chiropractic to consist of 5 members appointed by the Mayor.

(2) The Advisory Committee on Chiropractic shall develop and submit to the Board guidelines for the licensing of chiropractors and the regulation of the practice of chiropractic.

(3) Of the members of the Advisory Committee on Chiropractic, 3 shall be chiropractors licensed in the District, 1 shall be the Commissioner of Public Health or his or her designee, and 1 shall be a consumer member.

(4) The Advisory Committee on Chiropractic shall submit initial guidelines to the Board within 180 days of March 25, 1986, and shall subsequently meet at least annually to review the guidelines and make necessary revisions for submission to the Board.

(d)(1) There is established an Advisory Committee on Physician Assistants to consist of 3 members appointed by the Mayor.

(2) The Advisory Committee on Physician Assistants shall develop and submit to the Board guidelines for the licensing and regulation of physician assistants in the District. The guidelines shall set forth the actions which may be performed by physician assistants in collaboration with a licensed physician or osteopath, who shall be responsible for the overall medical direction of the care and treatment of patients, and the levels of collaboration required for each action.

(3) Of the members of the Advisory Committee on Physician Assistants, 1 shall be a physician or osteopath licensed in the District with experience working with physician assistants, 1 shall be a physician assistant licensed in the District, and 1 shall be the Commissioner of Public Health or his or her designee.

(4) The Advisory Committee on Physician Assistants shall submit initial guidelines to the Board within 180 days of March 25, 1986, and shall subsequently meet at least annually to review the guidelines and make necessary revisions for submission to the Board.

(e) Of the members initially appointed to the Advisory Committees on Acupuncture, Chiropractic, and Physician Assistants, 1 member of each committee shall be appointed to a term of 2 years and 1 member of each shall be appointed to a term of 3 years. Of the members initially appointed to the Advisory Committee on Chiropractic, 1 member shall be appointed to a term of 1 year, 1 member shall be appointed to a term of 2 years and 2 members shall be appointed to terms of 3 years. Subsequent appointments shall be for terms of 3 years. This subsection shall not apply to the Commissioner of Public Health or his or her designee.

(f) The Advisory Committee on Chiropractic shall review applications for licensure to practice chiropractic and shall forward its recommendations to the Board for action. Upon request by the Board, the Advisory Committees on Acupuncture and Physician Assistants shall review applications for licensure to practice acupuncture or to practice as a physician assistant, respectively, and shall forward recommendations to the Board for action.

(g)(1) The Board shall require each applicant for licensure to practice medicine to state his or her specialty, if any, and list his or her qualifications, by education, training, or experience, to practice the specialty.



(2) The Board shall determine, within 180 days from the date the application was filed, whether the applicant is qualified to practice the specialty, and if so, the Board shall identify on any license issued to the applicant the specialty the applicant stated.

(3) Notwithstanding the requirements of paragraph (2) of this subsection, the Board shall issue a license to an applicant immediately upon determining that the applicant is entitled to licensure to practice medicine. If the Board has not at that time made the determination required by paragraph (2) of this subsection, the license shall be issued without a determination of specialty. Upon subsequently making a positive determination, the Board shall issue an amended license identifying the specialty.

(4) A licensee may add to, delete, or otherwise amend a statement of specialty in any application for license renewal. (Mar. 25, 1986, D.C. Law 6-99, § 203, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(b), 34 DCR 3789; Jan. 30, 1990, D.C. Law 8-60, § 2, 36 DCR 7386; July 25, 1990, D.C. Law 8-152, § 2, 37 DCR 3743.)

**Section references.** — This section is referred to in § 2-3301.2.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 7-31.** — See note to § 2-3302.1.

**Legislative history of Law 8-60.** — Law 8-60, the "District of Columbia Health Occupations Revision Act of 1985 Physician Assistants Temporary Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-349. The Bill was adopted on first and second readings on July 11, 1989 and September 26, 1989, respectively. Signed by the Mayor on October 13, 1989, it was assigned Act. No. 8-90 and transmitted to both Houses of Congress for its review. Act No. 8-90 became effective

on January 30, 1990, after Congressional review, and was assigned D.C. Law 8-60.

**Legislative history of Law 8-152.** — Law 8-152, the "District of Columbia Health Occupations Revision Act of 1985 Physician Assistants Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-353, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on May 1, 1990, and May 15, 1990, respectively. Signed by the Mayor on May 30, 1990, it was assigned Act No. 8-210 and transmitted to both Houses of Congress for its review.

**Cited in** Mannan v. District of Columbia Bd. of Medicine, App. D.C., 558 A.2d 329 (1989).

## § 2-3302.4. Board of Nursing.

(a) There is established a Board of Nursing to consist of 11 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of advanced registered nursing, registered nursing, and practical nursing. Advanced registered nursing includes the categories of nurse-midwife, nurse-anesthetist, and nurse-practitioner.

(c) Of the members of the Board, 7 shall be registered nurses licensed in the District, 1 of whom shall be certified as a nurse-midwife, 1 of whom shall be certified as a nurse-anesthetist, and 1 of whom shall be certified as a nurse-practitioner; 2 shall be practical nurses licensed in the District; and 2 shall be consumer members.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 3 shall be appointed for a term of 1 year, 4 shall be appointed for a term of 2 years, and 4

shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments. (Mar. 25, 1986, D.C. Law 6-99, § 204, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(c), 34 DCR 3789.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 7-31.** — See note to § 2-3302.1.

**Establishment of Nursing Shortage Study Commission.** — Section 2 of D.C. Law

7-35 provides for the establishment of the District of Columbia Nursing Shortage Study Commission, including the appointment, membership, duration, focus of study, reports, reimbursement, office space and support personnel.

**§ 2-3302.5. Board of Nursing Home Administration.**

(a) There is established a Board of Nursing Home Administration to consist of 5 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of nursing home administration.

(c) Of the members of the Board, 2 shall be nursing home administrators licensed in the District, 1 shall be an educator from an institution of higher learning engaged in teaching health care administration, 1 shall be a physician or osteopath licensed in the District who has a demonstrated interest in long-term care, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments. (Mar. 25, 1986, D.C. Law 6-99, § 205, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(d), 34 DCR 3789.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 7-31.** — See note to § 2-3302.1.

**§ 2-3302.6. Board of Occupational Therapy.**

(a) There is established a Board of Occupational Therapy to consist of 5 members appointed by the Mayor.

(b) The Board shall regulate the practice of occupational therapy and the practice by occupational therapy assistants.

(c) Of the members of the Board, 3 shall be occupational therapists licensed in the District, 1 shall be an occupational therapy assistant licensed in the District, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2

shall be appointed for a term of 3 years. (Mar. 25, 1986, D.C. Law 6-99, § 206, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

### § 2-3302.7. Board of Optometry.

(a) There is established a Board of Optometry to consist of 5 members appointed by the Mayor.

(b) The Board shall regulate the practice of optometry.

(c) Of the members of the Board, 4 shall be optometrists licensed in the District and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years.

(f) The Board shall grant applications by licensed optometrists for certification to administer diagnostic pharmaceutical agents for applicants who demonstrate to the satisfaction of the Board that they have:

(1) Successfully completed a Board-approved course in general and ocular pharmacology as it relates to the practice of optometry, which shall consist of at least 55 classroom hours, including a minimum of 15 classroom hours in general pharmacology, 20 classroom hours in ocular pharmacology, and 20 classroom hours of clinical laboratory, offered or approved by an accredited institution of higher education; and

(2) Passed an examination administered or approved by the Board on general and ocular pharmacology designed to test knowledge of the proper use, characteristics, pharmacological effects, indications, contraindications, and emergency care associated with the use of diagnostic pharmaceutical agents. (Mar. 25, 1986, D.C. Law 6-99, § 207, 33 DCR 729.)

**Section references.** — This section is referred to in § 2-3301.2.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

### § 2-3302.8. Board of Pharmacy.

(a) There is established a Board of Pharmacy to consist of 7 members appointed by the Mayor.

(b) The Board shall regulate the practice of pharmacy.

(c) Of the members of the Board, 5 shall be pharmacists licensed in the District and 2 shall be consumer members.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years. (Mar. 25, 1986, D.C. Law 6-99, § 208, 33 DCR 729.)



**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**§ 2-3302.9. Board of Physical Therapy.**

(a) There is established a Board of Physical Therapy to consist of 5 members appointed by the Mayor.

(b) The Board shall regulate the practice of physical therapy.

(c) Of the members of the Board, 4 shall be physical therapists licensed in the District and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years. (Mar. 25, 1986, D.C. Law 6-99, § 209, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**§ 2-3302.10. Board of Podiatry.**

(a) There is established a Board of Podiatry to consist of 3 members appointed by the Mayor.

(b) The Board shall regulate the practice of podiatry.

(c) Of the members of the Board, 2 shall be podiatrists licensed in the District and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 1 shall be appointed for a term of 2 years, and 1 shall be appointed for a term of 3 years. (Mar. 25, 1986, D.C. Law 6-99, § 210, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Capacity to testify as expert witness.** — This chapter governs the licensing of podia-

trists, and does not purport to limit the capacity of podiatrists to testify in medical malpractice cases. *District of Columbia v. Anderson*, App. D.C., 597 A.2d 1295 (1991).

**§ 2-3302.11. Board of Psychology.**

(a) There is established a Board of Psychology to consist of 5 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of psychology.

(c) Of the members of the Board, 4 shall be psychologists licensed in the District and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2

shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments. (Mar. 25, 1986, D.C. Law 6-99, § 211, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(e), 34 DCR 3789.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 7-31.** — See note to § 2-3302.1.

## § 2-3302.12. Board of Social Work.

(a) There is established a Board of Social Work to consist of 5 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of social work, including categories of specialties within the social work profession.

(c) Of the members of the Board, 4 shall be social workers licensed in the District, representing each of the 4 licensing categories established by subchapter VIII of this chapter, and 1 shall be a consumer member.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 1 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 2 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments. (Mar. 25, 1986, D.C. Law 6-99, § 212, 33 DCR 729; Oct. 7, 1987, D.C. Law 7-31, § 3(f), 34 DCR 3789.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 7-31.** — See note to § 2-3302.1.

## § 2-3302.13. Board of Professional Counseling.

(a) There is established a Board of Professional Counseling to consist of 5 members appointed by the Mayor.

(b) The Board shall regulate the practice of professional counseling.

(c) Members of the Board shall serve a 3-year term. Of the members first appointed to the Board, 1 member shall be appointed to a 1-year term, 2 members shall be appointed to a 2-year term, and 2 members shall be appointed to a 3-year term.

(d) Of the members of the Board, 3 shall be professional counselors licensed in the District, 1 shall be an educator engaged in teaching counseling, and 1 shall be a consumer member. (Mar. 25, 1986, D.C. Law 6-99, § 213, as added July 22, 1992, D.C. Law 9-126, § 2(d), 39 DCR 3824.)

**Effect of amendments.** — D.C. Law 9-126 added this section.

**Legislative history of Law 9-126.** — Law 9-126, the "District of Columbia Health Occupations Revision Act of 1985 Professional

Counselors Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-197, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on

April 7, 1992, and May 6, 1992, respectively. Signed by the Mayor on May 28, 1992, it was assigned Act No. 9-210 and transmitted to both

Houses of Congress for its review. D.C. Law 9-126 became effective on July 22, 1992.

### *Subchapter III. Administration.*

#### **§ 2-3303.1. Administration.**

The boards established by this chapter shall be under the administrative control of the Mayor. (Mar. 25, 1986, D.C. Law 6-99, § 301, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

#### **§ 2-3303.2. Responsibilities of Mayor.**

The Mayor shall be responsible for:

(1) Planning, developing, and maintaining procedures to ensure that the boards receive administrative support, including staff and facilities, sufficient to enable them to perform their responsibilities;

(2) Processing and providing licenses as required and approved by the boards;

(3) Providing investigative and inspection services;

(4) Holding hearings on cases pursuant to guidelines established in § 2-3305.19 when requested to do so by the board, and appointing hearing officers to enable the boards to hold hearings;

(5) Furnishing expert services in noncompliance cases brought in an administrative or court proceeding;

(6) Providing budgetary and personnel services;

(7) Maintaining central files of records pertaining to licensure, inspections, investigations, and other matters requested by the boards;

(8) Furnishing facilities and staff for hearings and other proceedings;

(9) Providing information to the public concerning licensing requirements and procedures;

(10) Publishing and distributing procedural manuals concerning licensing and inspections and other materials prepared by the boards;

(11) Assisting, supplying, furnishing, and performing other administrative, clerical, and technical support the Mayor determines is necessary or appropriate;

(12) Issuing rules, as the Mayor may periodically determine to be necessary to protect the health and welfare of the citizens of the District, for the temporary licensure for a fixed period of time not to exceed 90 days and under conditions to be prescribed by the Mayor by rule, of applicants for licensure to practice a health occupation in the District, except the Mayor may provide for the issuance of temporary licenses to applicants for licensure to practice social work for a period not to exceed 1 year;

(13) Making necessary rules relating to the administrative procedures of the boards; and



(14) Issuing all rules necessary to implement the provisions of this chapter. (Mar. 25, 1986, D.C. Law 6-99, § 302, 33 DCR 729; Apr. 8, 1992, D.C. Law 9-92, § 2, 39 DCR 1369; Oct. 1, 1992, D.C. Law 9-165, § 2, 39 DCR 5817.)

**Effect of amendments.** — D.C. Law 9-165, in (12), added the language beginning with "except".

**Temporary amendments of section.** — Section 2 of D.C. Law 9-92 amended (12).

Section 3(b) of D.C. Law 9-92 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the District of Columbia Health Occupations Revision Act of 1985 Temporary Licensure of Social Workers Amendment Act of 1992, whichever occurs first.

**Emergency act amendments.** — For temporary amendment of section, see § 2 of the District of Columbia Health Occupations Revision Act of 1985 Temporary Licensure of Social Workers Emergency Amendment Act of 1992 (D.C. Act 9-148, January 28, 1992, 39 DCR 714). Section 3 of D.C. Act 9-148 provided that any 90-day temporary licenses to practice social work issued prior to January 28, 1992, shall be extended automatically for a period of 1 year from the date the license was issued, subject to any conditions prescribed by the mayor pursuant to § 302(12) of the act.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 9-92.** — Law 9-92, the "District of Columbia Health Occupa-

tions Revision Act of 1985 Temporary Licensure of Social Workers Temporary Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-411. The Bill was adopted on first and second readings on January 7, 1992, and February 4, 1992, respectively. Signed by the Mayor on February 21, 1992, it was assigned Act No. 9-160 and transmitted to both Houses of Congress for its review. D.C. Law 9-92 became effective on April 8, 1992.

**Legislative history of Law 9-165.** — Law 9-165, the "District of Columbia Health Occupations Revision Act of 1985 Temporary Licensure of Social Workers Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-370, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 2, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 23, 1992, it was assigned Act No. 9-263 and transmitted to both Houses of Congress for its review. D.C. Law 9-165 became effective on October 1, 1992.

**District of Columbia Nursing Home Advisory Commission established.** — See Mayor's Order 88-60, March 15, 1988.

**Cited in** *Greenlee v. Board of Medicine*, 813 F. Supp. 48 (D.D.C. 1993).

## *Subchapter IV. General Provisions Relating to Health Occupation Boards.*

### § 2-3304.1. Qualifications of members.

(a) The members of each board shall be residents of the District at the time of their appointments and while they are members of the board.

(b)(1) Each professional member of a board, in addition to the requirements of subsection (a) of this section, shall have been engaged in the practice of the health occupation regulated by the board for at least 3 years preceding appointment.

(2) The dietitian and nutritionist members initially appointed to the Board of Dietetics and Nutrition, the nonphysician acupuncturist member initially appointed to the Advisory Committee on Acupuncture, the physician assistant member initially appointed to the Advisory Committee on Physician Assistants, the social worker members initially appointed to the Board of Social Work, and the professional counselor members initially appointed to the Board of Professional Counseling shall be eligible for and shall file a timely application for licensure in the District. The advanced registered nurse members initially appointed to the Board of Nursing shall be licensed in the

District as registered nurses, shall meet the qualifications of this chapter to practice their respective specialties, shall have practiced their respective specialties for at least 3 years preceding appointment, and shall file a timely application for certification to practice their respective specialties.

(c) Each consumer member of a board, in addition to the requirements of subsection (a) of this section, shall:

(1) Be at least 18 years old;

(2) Not be a health professional or in training to become a health professional;

(3) Not have a household member who is a health professional or is in training to become a health professional; and

(4) Not own, operate, or be employed in or have a household member who owns, operates, or is employed in a business which has as its primary purpose the sale of goods or services to health professionals or health-care facilities.

(d) Within the meaning of subsection (c) of this section, the term "household member" means a relative, by blood or marriage, or a ward of an individual who shares the individual's actual residence.

(e) The office of a member of a board or advisory committee shall be forfeited upon the member's failure to maintain the qualifications required by this chapter.

(f) Each professional member of a board or advisory committee shall disqualify himself or herself from acting on his or her own application for licensure or license renewal or on any other matter related to his or her practice of a health occupation. (Mar. 25, 1986, D.C. Law 6-99, § 401, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(e), 39 DCR 3824.)

**Effect of amendments.** — D.C. Law 9-126, in (b)(2), inserted "and the professional counselor members initially appointed to the Board of Professional Counseling" and made minor changes.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 9-126.** — See note to § 2-3302.13.

## § 2-3304.2. Terms of members; filling of vacancies.

(a) The terms of members of a board or advisory committee, after the initial terms, shall expire on the 3rd anniversary of the date the 1st members constituting a quorum take the oath of office.

(b) At the end of a term, a member shall continue to serve until a successor is appointed and sworn into office.

(c) A vacancy on a board or advisory committee shall be filled in the same manner as the original appointment was made.

(d) A member appointed to fill a vacancy shall serve only until the expiration of the term or until a successor is appointed and sworn into office. (Mar. 25, 1986, D.C. Law 6-99, § 402, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**§ 2-3304.3. Limitation on consecutive terms.**

No member of a board or advisory committee shall be appointed to serve more than 3 full consecutive 3-year terms. (Mar. 25, 1986, D.C. Law 6-99, § 403, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Cited in** *Greenlee v. Board of Medicine*, 813 F. Supp. 48 (D.D.C. 1993).

**§ 2-3304.4. Removal.**

(a) The Mayor may remove a member of a board or advisory committee for incompetence, misconduct, or neglect of duty, after due notice and a hearing.

(b) The failure of a member of a board or advisory committee to attend at least  $\frac{1}{2}$  of the regular, scheduled meetings of the board or advisory committee within a 12-month period shall constitute neglect of duty within the meaning of subsection (a) of this section. (Mar. 25, 1986, D.C. Law 6-99, § 404, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Cited in** *Greenlee v. Board of Medicine*, 813 F. Supp. 48 (D.D.C. 1993).

**§ 2-3304.5. Officers; meetings; quorum.**

(a) From among the members of each board and advisory committee, the Mayor shall designate a chairperson.

(b) Each board and advisory committee shall determine the times and places of its meetings and shall publish notice of regular meetings at least 1 week in advance in the District of Columbia Register.

(c) A majority of the members of each board and advisory committee shall constitute a quorum. (Mar. 25, 1986, D.C. Law 6-99, § 405, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**§ 2-3304.6. Compensation.**

Members of each board and advisory committee shall be entitled to receive compensation in accordance with § 1-612.8, and in addition shall be reimbursed for reasonable travel and other expenses incurred in the performance of their duties. (Mar. 25, 1986, D.C. Law 6-99, § 406, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.



**§ 2-3304.7. Staff.**

For each board, the Mayor may set the compensation of personnel he or she deems advisable, subject to available appropriations, in accordance with Chapter 6 of Title 1. (Mar. 25, 1986, D.C. Law 6-99, § 407, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**§ 2-3304.8. General powers and duties.**

Each board shall:

(1) Administer and enforce the provisions of this chapter, and rules and regulations issued pursuant to this chapter, related to the health occupation regulated by the board;

(2) Evaluate the qualifications and supervise the examinations of applicants for licenses, either personally or through the use of consultant services;

(3) Make recommendations to the Mayor, upon request by the Mayor or when the board determines it necessary, for standards and procedures to be used in determining the acceptability of foreign education and training programs as substantially equivalent to the requirements of this chapter;

(4) Issue licenses to qualified applicants;

(5) Issue subpoenas, examine witnesses, and administer oaths;

(6) Receive and review complaints of violations of this chapter or rules and regulations issued pursuant to this chapter;

(7) Request the Mayor, on its own initiative or on the basis of a complaint, to conduct investigations of allegations of practices violating the provisions of this chapter with respect to the health occupation regulated by the board; and

(8) Conduct hearings and keep records and minutes necessary to carry out its functions. (Mar. 25, 1986, D.C. Law 6-99, § 408, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

Cited in *Greenlee v. Board of Medicine*, 813 F. Supp. 48 (D.D.C. 1993).

**§ 2-3304.9. Fees.**

The Mayor is authorized to establish a fee schedule for all services related to the regulation of all health occupations under this chapter, in accordance with the requirements of District law. (Mar. 25, 1986, D.C. Law 6-99, § 409, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

### § 2-3304.10. Disposition of funds.

All fees, civil fines, and other funds collected pursuant to this chapter shall be deposited to the General Fund of the District. (Mar. 25, 1986, D.C. Law 6-99, § 410, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

### § 2-3304.11. Annual report.

Each board shall, before January 1 of each year, submit a report to the Mayor and the Council of its official acts during the preceding fiscal year. (Mar. 25, 1986, D.C. Law 6-99, § 411, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

## *Subchapter V. Licensing of Health Professionals.*

### § 2-3305.1. License required.

A license issued pursuant to this chapter is required to practice medicine, acupuncture, chiropractic, registered nursing, practical nursing, dentistry, dental hygiene, dietetics, nutrition, nursing home administration, occupational therapy, optometry, pharmacy, physical therapy, podiatry, psychology, social work, and professional counseling or to practice as a physician assistant or occupational therapy assistant in the District, except as provided in this chapter. A certification issued pursuant to this chapter is required to practice advanced registered nursing. (Mar. 25, 1986, D.C. Law 6-99, § 501, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(f), 39 DCR 3824.)

**Section references.** — This section is referred to in §§ 21-501 and 47-1814.1a.

**Effect of amendments.** — D.C. Law 9-126, in the first sentence, inserted “and professional counseling” and made minor changes.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 9-126.** — See note to § 2-3302.13.

### § 2-3305.2. Exemptions.

The provisions of this chapter prohibiting the practice of a health occupation without a license shall not apply:

(1) To an individual who administers treatment or provides advice in any case of emergency;

(2) To an individual employed in the District by the federal government, while he or she is acting in the official discharge of the duties of employment;

(3) To an individual, licensed to practice a health occupation in a state, who is called from the state in professional consultation by or on behalf of a specific patient to visit, examine, treat, or advise the specific patient in the District, or to give a demonstration or clinic in the District, provided that the

individual engages in the consultation, demonstration, or clinic in affiliation with a comparable health professional licensed pursuant to this chapter;

(4) To a health professional who is authorized to practice a health occupation in any state adjoining the District who treats patients in the District if:

(A) The health professional does not have an office or other regularly appointed place in the District to meet patients;

(B) The health professional registers with the appropriate board and pays the registration fee prescribed by the board prior to practicing in the District; and

(C) The state in which the individual is licensed allows individuals licensed by the District in that particular health profession to practice in that state under the conditions set forth in this subsection.

(D) Notwithstanding the provisions of subparagraphs (A), (B), and (C) of this paragraph, a health professional practicing in the District pursuant to this paragraph shall not see patients or clients in the office or other place of practice of a District licensee, or otherwise circumvent the provisions of this chapter. (Mar. 25, 1986, D.C. Law 6-99, § 502, 33 DCR 729.)

**Legislative history of Law 6-99.** — See Bd. of Psychology, App. D.C., 562 A.2d 116 (1989); Roberts v. District of Columbia Bd. of

note to § 2-3301.1. Cited in Donahue v. District of Columbia Medicine, App. D.C., 577 A.2d 319 (1990).

### § 2-3305.3. General qualifications of applicants.

(a) An individual applying for a license under this chapter shall establish to the satisfaction of the board regulating the health occupation that the individual:

(1) Has not been convicted of an offense which bears directly on the fitness of the individual to be licensed;

(2) Is at least 18 years of age;

(3) Has successfully completed the additional requirements set forth in § 2-3305.4 and subchapters VI, VII, and VIII of this chapter, as applicable;

(4) Has passed an examination, administered by the board or recognized by the Mayor pursuant to § 2-3305.6, to practice the health occupation; and

(5) Meets any other requirements established by the Mayor by rule to assure that the applicant has had the proper training, experience, and qualifications to practice the health occupation.

(b) The board may grant a license to an applicant whose education and training in the health occupation has been successfully completed in a foreign school, college, university, or training program if the applicant otherwise qualifies for licensure and if the board determines, in accordance with rules issued by the Mayor, that the education and training are substantially equivalent to the requirements of this chapter in assuring that the applicant has the proper training, experience, and qualifications to practice the health occupation.

(c) The board may deny a license to an applicant whose license to practice a health occupation was revoked or suspended in another state if the basis of the license revocation or suspension would have caused a similar result in the



District, or if the applicant is the subject of pending disciplinary action regarding his or her right to practice in another state.

(d) The references in § 2-3305.4 and subchapters VI, VII, and VIII of this chapter to named professional organizations and governmental entities for purposes of accreditation or the administration of national examinations shall be considered to refer to successor organizations or entities upon a determination by the Mayor that the successor is substantially equivalent in standards and purposes as the organization or entity named in this chapter. (Mar. 25, 1986, D.C. Law 6-99, § 503, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Requirements of license of endorsement.** — The requirements detailed in this section and in § 2-3305.4 were not the only criteria appropriate for the Board of Medicine's decision of whether or not to grant plaintiff a license of endorsement; thus, plaintiff's argu-

ment that he was qualified per se upon meeting the criteria of these sections was refuted. *Greenlee v. Board of Medicine*, 813 F. Supp. 48 (D.D.C. 1993).

**Cited in** *Donahue v. District of Columbia Bd. of Psychology*, App. D.C., 562 A.2d 116 (1989); *Roberts v. District of Columbia Bd. of Medicine*, App. D.C., 577 A.2d 319 (1990).

## § 2-3305.4. Additional qualifications of applicants.

(a) An individual applying for a license to practice acupuncture under this chapter shall establish to the satisfaction of the Board of Medicine that the individual:

(1) If he or she is a licensed physician, has successfully completed at least 100 hours of instruction in the practice of acupuncture at a school or college accredited by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine, or other training approved by the Board; or

(2) If he or she is not a licensed physician, has successfully completed an educational program in the practice of acupuncture of at least 3 academic years at the post-baccalaureate level at a school or college accredited by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine, or other training approved by the Board.

(b) An individual applying for a license to practice chiropractic under this chapter shall establish to the satisfaction of the Board of Medicine that the individual:

(1) Is a graduate of an educational program in the practice of chiropractic of at least 4 academic years at a college of chiropractic accredited by the Council on Chiropractic Education or the Straight Chiropractic Academic Standards Association; and

(2) Has completed at least 500 hours of practical clinical experience under the supervision of a licensed chiropractor.

(c) An individual applying for a license to practice dental hygiene under this chapter shall establish to the satisfaction of the Board of Dentistry that the individual is a graduate of an educational program in the practice of dental hygiene of at least 2 academic years which is approved by the Board.

(d) An individual applying for a license to practice dentistry under this chapter shall establish to the satisfaction of the Board of Dentistry that the

individual is a graduate of a school of dentistry accredited by the Commission on Dental Accreditation.

(e) An individual applying for a license to practice medicine under this chapter shall establish to the satisfaction of the Board of Medicine that the individual is a graduate of an accredited school of medicine and has completed at least 1 year of residency in a hospital or other health-care facility licensed by the District or by any state.

(f)(1) An individual applying for a license to practice nursing home administration under this chapter shall establish to the satisfaction of the Board of Nursing Home Administration that the individual:

(A) Has earned a baccalaureate degree from an accredited 4-year institution of higher education with a specialty in the courses or program of study applicable to the practice of nursing home administration; and

(B) Except as provided in paragraph (2) of this subsection, has worked for at least 1 year in a nursing home licensed in the District under the supervision of a licensed nursing home administrator.

(2) The requirement of paragraph (1) (B) of this subsection shall not apply to an applicant who has earned a master's degree in nursing home administration or other appropriate specialty from an accredited institution of higher education.

(g)(1) An individual applying for a license to practice occupational therapy under this chapter shall establish to the satisfaction of the Board of Occupational Therapy that the individual:

(A) Has successfully completed an educational program in occupational therapy which is accredited by the American Medical Association in collaboration with the American Occupational Therapy Association, with a concentration in biological or physical science, psychology, and sociology and with training in activity analysis; and

(B) Has successfully completed a period of at least 6 months of supervised work experience at an accredited educational institution or program approved by an accredited educational institution.

(2)(A) An individual applying for a license to practice as an occupational therapy assistant under this chapter shall establish to the satisfaction of the Board of Occupational Therapy that the individual has successfully completed an educational program in occupational therapy, at the level of occupational therapy assistant, which is approved by the American Occupational Therapy Association; and

(B) Has successfully completed a period of at least 2 months of supervised work experience at an accredited educational institution or program approved by an accredited educational institution.

(3)(A) The Board of Occupational Therapy shall waive the examination requirement of this chapter for any applicant for licensure as an occupational therapist or occupational therapy assistant who was certified prior to April 6, 1978, as an occupational therapist registered ("O.T.R.") or a certified occupational therapy assistant ("C.O.T.A."), respectively, by the American Occupational Therapy Association. The Board may waive the examination requirement for any applicant so certified after April 6, 1978, if the Board determines



that the requirements for certification were substantially equivalent at the time of the certification to the requirements of this chapter.

(B) The Board of Occupational Therapy shall waive the education, experience, and examination requirements of this chapter for any applicant who presents evidence satisfactory to the Board that he or she has engaged in the practice of occupational therapy, or as an occupational therapy assistant, on and prior to April 6, 1978.

(C) The waivers provided by this paragraph shall be granted only upon request by an applicant within 12 months of March 25, 1986.

(h) An individual applying for a license to practice optometry under this chapter shall establish to the satisfaction of the Board of Optometry that the individual is a graduate of a school of optometry approved by the Board.

(i) An individual applying for a license to practice pharmacy under this chapter shall establish to the satisfaction of the Board of Pharmacy that the individual:

(1) Has earned a degree in pharmacy from a college or school of pharmacy accredited by the American Council of Pharmaceutical Education; and

(2) Has worked as a pharmacy intern in a pharmacy for the period of time required by the Mayor or has gained other equivalent experience the Mayor may permit by rule.

(j) An individual applying for a license to practice physical therapy under this chapter shall establish to the satisfaction of the Board of Physical Therapy that the individual has successfully completed an educational program in the practice of physical therapy which is accredited by an agency recognized for that purpose by the United States Department of Education, or which is approved by the Board.

(k) An individual applying for a license to practice as a physician assistant under this chapter shall establish to the satisfaction of the Board of Medicine that the individual has successfully completed a physician assistant educational program accredited by the Committee on Allied Health Education and Accreditation.

(l) An individual applying for a license to practice podiatry under this chapter shall establish to the satisfaction of the Board of Podiatry that the individual is a graduate of a podiatry college recognized by the American Podiatric Medical Association and approved by the Board.

(m) An individual applying for a license to practice practical nursing under this chapter shall establish to the satisfaction of the Board of Nursing that the individual has successfully completed a postsecondary level educational program in practical nursing which is approved by the Board.

(n) An individual applying for a license to practice registered nursing under this chapter shall establish to the satisfaction of the Board of Nursing that the individual has successfully completed an educational program in registered nursing approved by the Board or by a state board of nursing with standards substantially equivalent to the standards of the District.

(o) An individual applying for a license to practice psychology under this chapter shall establish to the satisfaction of the Board of Psychology that the individual has:



(1) Earned a doctoral degree in psychology from an accredited college or university; and

(2) Completed at least 2 years of postdoctoral experience acceptable to the Board. (Mar. 25, 1986, D.C. Law 6-99, § 504, 33 DCR 729.)

**Section references.** — This section is referred to in §§ 2-3305.3 and 2-3309.3.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**The application of educational requirements to prospective applicants** who have not yet acquired professional skills from practice at a time when the profession has developed a recognized formal program of study is demonstrably a rational means to achieve the legislative purpose of protecting the "public health, safety, and welfare" from "the practice of psychology by unqualified persons." *Donahue v. District of Columbia Bd. of Psychology*, App. D.C., 562 A.2d 116 (1989).

A person who has completed a doctorate in reliance on the provisions of law in existence at the time that person began and completed the degree requirements is not excepted from the revised requirements, and the application of such requirements is not violative of due pro-

cess or equal protection principles. *Donahue v. District of Columbia Bd. of Psychology*, App. D.C., 562 A.2d 116 (1989).

**"Degree in psychology".** — The Board of Psychology could reasonably define "degree in psychology" in a manner that did not require it to evaluate an applicant's individual courses but which relied on sources premised on well-defined standards accepted by the profession. *Donahue v. District of Columbia Bd. of Psychology*, App. D.C., 562 A.2d 116 (1989).

**Requirements of license of endorsement.** — The requirements detailed in § 2-3305.3 and in this section were not the only criteria appropriate for the Board of Medicine's decision of whether or not to grant plaintiff a license of endorsement; thus, plaintiff's argument that he was qualified *per se* upon meeting the criteria of these sections was refuted. *Greenlee v. Board of Medicine*, 813 F. Supp. 48 (D.D.C. 1993).

## § 2-3305.5. Application for license.

An applicant for a license shall:

(1) Submit an application to the board regulating the health occupation on the form required by the board; and

(2) Pay the applicable fees established by the Mayor. (Mar. 25, 1986, D.C. Law 6-99, § 505, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

## § 2-3305.6. Examinations.

(a) An applicant who otherwise qualifies for a license is entitled to be examined as provided by this chapter.

(b)(1) Each board shall give examinations to applicants at least twice a year at times and places to be determined by the board.

(2) When the Mayor, pursuant to subsection (e)(2) of this section, determines that a national examination is acceptable, then the frequency, time, and place that the national examination is given shall be considered acceptable and in accordance with this chapter.

(c) Each board shall notify each qualified applicant of the time and place of examination.

(d) Except as otherwise provided by this chapter, each board shall determine the subjects, scope, form, and passing score for examinations to assess

the ability of the applicant to practice effectively the health occupation regulated by the board.

(e) Each board, in its discretion, may waive the examination requirements:

(1) For any applicant who otherwise qualifies for licensure and who is currently licensed or certified under the laws of a state or territory of the United States with standards which, in the opinion of the board, were substantially equivalent at the date of the licensure or certification to the requirements of this chapter; or

(2) For any person who has been certified by a national examining board if the Mayor determines by rule that the examination was as effective for the testing of professional competence as that required in the District. (Mar. 25, 1986, D.C. Law 6-99, § 506, 33 DCR 729.)

**Section references.** — This section is referred to in § 2-3305.3.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Substantial equivalency.** — Board's reciprocity requirement of strict conformity with the District's minimum passing grade of 75 on

standardized FLEX exam is not an unreasonable interpretation of substantial equivalency. *Roberts v. District of Columbia Bd. of Medicine*, App. D.C., 577 A.2d 319 (1990).

Cited in *Greenlee v. Board of Medicine*, 813 F. Supp. 48 (D.D.C. 1993).

## § 2-3305.7. Reciprocity and endorsement.

Each board, in its discretion, may issue a license by reciprocity or endorsement to an applicant:

(1) Who is licensed or certified and in good standing under the laws of another state with requirements which, in the opinion of the board, were substantially equivalent at the time of licensure to the requirements of this chapter, and which state admits health professionals licensed by the District in a like manner; and

(2) Who pays the applicable fees established by the Mayor. (Mar. 25, 1986, D.C. Law 6-99, § 507, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Constitutionality of presumptions relating to standardized testing.** — As applied to a doctor who had spent four years as a psychiatrist at Saint Elizabeths Hospital under a special statutory dispensation exempting doctors working there from local licensing requirements, the Board's presumption that those who had scored less than 75 on the Federation Licensing Examination (FLEX) were not qualified to practice in the District of Columbia was not unconstitutional. *Roberts v. District of Columbia Bd. of Medicine*, App. D.C., 577 A.2d 319 (1990).

A general practice of treating medical licensure applicants invoking the endorsement/reciprocity provisions in a radically disparate manner based upon whether the state in which they were licensed required the standard FLEX medical examination would import

into the Board of Medicine's administration of the endorsement/reciprocity provisions an unacceptable degree of arbitrariness. *Roberts v. District of Columbia Bd. of Medicine*, App. D.C., 577 A.2d 319 (1990).

**Denial of medical practitioner's license did not violate due process and the equal protection of the laws** and was therefore not actionable under 42 U.S.C. § 1983. *Greenlee v. Board of Medicine*, 813 F. Supp. 48 (D.D.C. 1993).

**Substantial equivalency.** — Board's reciprocity requirement of strict conformity with the District's minimum passing grade of 75 on standardized FLEX exam is not an unreasonable interpretation of substantial equivalency. *Roberts v. District of Columbia Bd. of Medicine*, App. D.C., 577 A.2d 319 (1990).

Application for certification was properly denied where petitioner failed to establish at the administrative level that another state's li-

censing standards were substantially equivalent at the date of the licensure to the District of Columbia's requirements. *Singer v. District of Columbia Bd. of Medicine*, App. D.C., 631 A.2d 1232 (1993).

**Post-licensure experience not considered.** — This section reflects a legislative judgment that, apart from current licensure and good standing in another state, the relevant considerations for a license by endorsement and reciprocity are circumstances at the time of original licensure and not intervening experience or accomplishment — perhaps because the latter, as an objective measurement of qualification, is too difficult to assess. *Roberts*

*v. District of Columbia Bd. of Medicine*, App. D.C., 577 A.2d 319 (1990).

**Requirements of license of endorsement.** — The requirements detailed in §§ 2-3305.3 and 2-3305.4 were not the only criteria appropriate for the Board of Medicine's decision of whether or not to grant plaintiff a license of endorsement; thus, plaintiff's argument that he was qualified per se upon meeting the criteria of these sections was refuted. *Greenlee v. Board of Medicine*, 813 F. Supp. 48 (D.D.C. 1993).

**Cited in** *Donahue v. District of Columbia Bd. of Psychology*, App. D.C., 562 A.2d 116 (1989).

## § 2-3305.8. Issuance of license.

Each board shall issue a license to an applicant who meets the requirements of this chapter and rules and regulations issued pursuant to this chapter to practice the health occupation regulated by the board. (Mar. 25, 1986, D.C. Law 6-99, § 508, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Cited in** *Greenlee v. Board of Medicine*, 813 F. Supp. 48 (D.D.C. 1993).

## § 2-3305.9. Scope of license.

(a)(1) A person licensed under this chapter to practice a health occupation is authorized to practice that occupation in the District while the license is effective.

(2) A person certified to practice advanced registered nursing is authorized to practice the specialty for which he or she has been certified by the Board of Nursing.

(b) An individual who fails to renew a license to practice a health occupation shall be considered to be unlicensed and subject to the penalties set forth in this chapter and other applicable laws of the District, if he or she continues to practice the health occupation. (Mar. 25, 1986, D.C. Law 6-99, § 509, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

## § 2-3305.10. Term and renewal of licenses.

(a) A license expires 1 year from the date of its first issuance or renewal unless renewed by the board that issued it as provided in this section, except that the Mayor, by rule, may provide for a period of licensure of not more than 3 years.

(b) The Mayor may establish by rule continuing education requirements as a condition for renewal of licenses under this section.

(c) At least 30 days before the license expires, or a greater period as established by the Mayor by rule, each board shall send to the licensee, by first



class mail to the last known address of the licensee, a renewal notice that states:

- (1) The date on which the current license expires;
  - (2) The date by which the renewal application must be received by the board for renewal to be issued and mailed before the license expires; and
  - (3) The amount of the renewal fee.
- (d) Before the license expires, the licensee may renew it for an additional term, if the licensee:
- (1) Submits a timely application to the board;
  - (2) Is otherwise entitled to be licensed;
  - (3) Pays the renewal fee established by the Mayor; and
  - (4) Submits to the board satisfactory evidence of compliance with any continuing education requirements established by the board for license renewal.
- (e) Each board shall renew the license of each licensee who meets the requirements of this section. (Mar. 25, 1986, D.C. Law 6-99, § 510, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

### § 2-3305.11. Inactive status.

- (a) Upon application by a licensee and payment of the inactive status fee established by the Mayor, each board shall place a licensee on inactive status.
- (b) While on inactive status, the individual shall not be subject to the renewal fee and shall not practice, attempt to practice, or offer to practice the health occupation in the District.
- (c) Each board shall issue a license to an individual who is on inactive status and who desires to resume the practice of a health occupation if the individual:
- (1) Pays the fee established by the Mayor;
  - (2) Complies with the continuing education requirements in effect when the licensee seeks to reactivate the license; and
  - (3) Complies with the current requirements for renewal of licenses. (Mar. 25, 1986, D.C. Law 6-99, § 511, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

### § 2-3305.12. Reinstatement of expired licenses.

- (a) If a health professional fails for any reason to renew the license issued under this subchapter, the board regulating the health occupation shall reinstate the license if the health professional:
- (1) Applies to the board for reinstatement of the license within 5 years after the license expires;
  - (2) Complies with current requirements for renewal of a license as set forth in this subchapter;
  - (3) Pays a reinstatement fee established by the Mayor; and

(4) Submits to the board satisfactory evidence of compliance with the qualifications and requirements established under this subchapter for license reinstatements.

(b) The board shall not reinstate the license of a health professional who fails to apply for reinstatement of a license within 5 years after the license expires. The health professional may become licensed by meeting the requirements then in existence for obtaining an initial license under this subchapter. (Mar. 25, 1986, D.C. Law 6-99, § 512, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

### **§ 2-3305.13. Display of licenses; change of address.**

(a) Each licensee shall display the license conspicuously in any and all places of business or employment of the licensee.

(b) Each licensee shall notify the board of any change of address of the place of residence or place of business or employment within 30 days after the change of address.

(c) Each licensee shall be subject to the penalties provided by this chapter for failure to comply with the requirements of this section. (Mar. 25, 1986, D.C. Law 6-99, § 513, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

### **§ 2-3305.14. Revocation, suspension, or denial of license or privilege; civil penalty; reprimand.**

(a) Each board, subject to the right of a hearing as provided by this subchapter, on an affirmative vote of a majority of its members then serving, may take 1 or more of the disciplinary actions provided in subsection (c) of this section against any applicant, licensee, or person permitted by this subchapter to practice the health occupation regulated by the board in the District who:

(1) Fraudulently or deceptively obtains or attempts to obtain a license for an applicant or licensee or for another person;

(2) Fraudulently or deceptively uses a license;

(3) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any jurisdiction for conduct that would be grounds for disciplinary action under this section;

(4) Has been convicted in any jurisdiction of any crime involving moral turpitude, if the offense bears directly on the fitness of the individual to be licensed;

(5) Is professionally or mentally incompetent or physically incapable;

(6) Is addicted to, or habitually abuses, any narcotic or controlled substance as defined by Chapter 5 of Title 33;

(7) Provides, or attempts to provide, professional services while under the influence of alcohol or while using any narcotic or controlled substance as

defined by Chapter 5 of Title 33, or other drug in excess of therapeutic amounts or without valid medical indication;

(8) Willfully makes or files a false report or record in the practice of a health occupation;

(9) Willfully fails to file or record any medical report as required by law, impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;

(10) On proper request in accordance with law, fails to provide details of a patient's medical record to a hospital or another health professional licensed under this chapter or under the laws of another jurisdiction;

(11) Willfully makes a misrepresentation in treatment;

(12) Willfully practices a health occupation with an unauthorized person or aids an unauthorized person in the practice of a health occupation;

(13) Submits false statements to collect fees for which services are not provided;

(14) Pays or agrees to pay anything of value to, or to split or divide fees for professional services with, any person for bringing or referring a patient;

(15) Fails to pay a civil fine imposed by a board, other administrative officer, or court;

(16) Willfully breaches a statutory, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient or client of the health professional, unless ordered by a court;

(17) Refuses to provide service to a person in contravention of Chapter 25 of Title 1;

(18) Violates any of the conditions of an agreement between the licensee and the board to voluntarily limit the practice of the licensee made pursuant to § 2-3305.18;

(19) Prescribes, dispenses, or administers drugs when not authorized to do so;

(20) Practices without a protocol when required by subchapter VI;

(21) Performs, offers, or attempts to perform services beyond the scope of those authorized by the license held by the health professional;

(22) Maintains an unsanitary office or performs professional services under unsanitary conditions;

(23) Engages in sexual harassment of a patient or client;

(24) Violates any provision of this chapter or rules and regulations issued pursuant to this chapter; or

(25) Violates the statutory authorities of the Department of Consumer and Regulatory Affairs as defined in Reorganization Plan No. 1 of 1983, and all applicable District laws and rules and regulations.

(b)(1) A board may require a health professional to submit to a mental or physical examination whenever it has probable cause to believe the health professional is impaired due to the reasons specified in subsection (a)(5), (6), and (7) of this section. The examination shall be conducted by 1 or more health professionals designated by the board, and he, she, or they shall report their findings concerning the nature and extent of the impairment, if any, to the board and to the health professional who was examined.



(2) Notwithstanding the findings of the examination commissioned by the board, the health professional may submit, in any proceedings before a board or other adjudicatory body, the findings of an examination conducted by 1 or more health professionals of his or her choice to rebut the findings of the examination commissioned by the board.

(3) Willful failure or refusal to submit to an examination requested by a board shall be considered as affirmative evidence that the health professional is in violation of subsection (a)(5), (6), or (7) of this section, and the health professional shall not then be entitled to submit the findings of another examination in disciplinary or adjudicatory proceedings related to the violation.

(c) Upon determination by the board that an applicant, licensee, or person permitted by this subchapter to practice in the District has committed any of the acts described in subsection (a) of this section, the board may:

(1) Deny a license to any applicant;

(2) Revoke or suspend the license of any licensee;

(3) Revoke or suspend the privilege to practice in the District of any person permitted by this subchapter to practice in the District;

(4) Reprimand any licensee or person permitted by this subchapter to practice in the District;

(5) Impose a civil fine not to exceed \$5,000 for each violation by any applicant, licensee, or person permitted by this subchapter to practice in the District;

(6) Require a course of remediation, approved by the board, which may include:

(A) Therapy or treatment;

(B) Retraining; and

(C) Reexamination, in the discretion of and in the manner prescribed by the board, after the completion of the course of remediation;

(7) Require a period of probation; or

(8) Issue a cease and desist order pursuant to § 2-3305.16.

(d) Nothing in this subchapter shall preclude prosecution for a criminal violation of this chapter regardless of whether the same violation has been or is the subject of 1 or more of the disciplinary actions provided by this subchapter. Criminal prosecution may proceed prior to, simultaneously with, or subsequent to administrative enforcement action. (Mar. 25, 1986, D.C. Law 6-99, § 514, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**References in text.** — "Reorganization Plan No. 1 of 1983" referred to in subsection (a)(25) of this section is set out in its entirety following the District of Columbia Self-Government and Governmental Reorganization Act in Volume 1.

**Filing or making false reports.** — In order to establish a willful violation under subsection (a)(8), the evidence need not show an intent to do harm, but it must demonstrate a conscious indifference to consequences under

circumstances likely to cause harm. *Mannan v. District of Columbia Bd. of Medicine*, App. D.C., 558 A.2d 329 (1989).

Board's finding that a doctor had willfully filed false medical reports was not supported by substantial evidence where the documentary evidence of the criminal proceeding, upon which the board based its finding, did not establish a willful violation of law. *Mannan v. District of Columbia Bd. of Medicine*, App. D.C., 558 A.2d 329 (1989).

Where there was ample evidence that dentist submitted false claims with intent to de-

fraud, there was a sufficient basis for the Board of Dentistry to revoke dentist's license. *Gropp v. District of Columbia Bd. of Dentistry*, App. D.C., 606 A.2d 1010 (1992).

**Applicability to former licensees.** — Nothing in the plain language of subsection (a) nor the legislative history precludes the Board from having jurisdiction to discipline former licensees for misconduct occurring while licensed where the Board initiates action during the life of the license. *Davidson v. District of Columbia Bd. of Medicine*, App. D.C., 562 A.2d 109 (1989).

Nothing in the Revision Act or its legislative history indicates that "licensee" was intended to refer only to someone who is licensed at the time the Board issues its final decision or order. *Davidson v. District of Columbia Bd. of Medicine*, App. D.C., 562 A.2d 109 (1989).

**Erroneous citation in a revocation notice** to a repealed predecessor of this section would not divest the Board of jurisdiction to discipline an applicant where the same conduct was cause for discipline under both statutes and the same disciplinary sanctions existed for the con-

duct. *Davidson v. District of Columbia Bd. of Medicine*, App. D.C., 562 A.2d 109 (1989).

Erroneous citation in a revocation notice to Healing Arts Practice statute repealed by the Revision Act of 1985 did not divest the Board of jurisdiction to discipline an applicant where the same conduct was cause for discipline under both statutes and the same disciplinary sanctions existed for the conduct. *Salama v. District of Columbia Bd. of Medicine*, App. D.C., 578 A.2d 693 (1990).

**Finding unsupported by evidence.** — District Board's finding that physician was disciplined in Virginia for "practicing the healing art in violation of an effective order of the Virginia Board" was unsupported by the evidence where the physician merely failed to achieve a status that the Virginia Board required him to achieve if he were to resume the practice of medicine in Virginia. *Salama v. District of Columbia Bd. of Medicine*, App. D.C., 578 A.2d 693 (1990).

**Cited in** *Joseph v. District of Columbia Bd. of Medicine*, App. D.C., 587 A.2d 1085 (1991).

## § 2-3305.15. Summary action.

(a) If the Mayor determines, after investigation, that the conduct of a licensee presents an imminent danger to the health and safety of the residents of the District, the Mayor may summarily suspend or restrict, without a hearing, the license to practice a health occupation.

(b) The Mayor, at the time of the summary suspension or restriction of a license, shall provide the licensee with written notice stating the action that is being taken, the basis for the action, and the right of the licensee to request a hearing.

(c) A licensee shall have the right to request a hearing within 72 hours after service of notice of the summary suspension or restriction of license. The Mayor shall hold a hearing within 72 hours of receipt of a timely request, and shall issue a decision within 72 hours after the hearing.

(d) Every decision and order adverse to a licensee shall be in writing and shall be accompanied by findings of fact and conclusions of law. The findings shall be supported by, and in accordance with, reliable, probative, and substantial evidence. The Mayor shall provide a copy of the decision and order and accompanying findings of fact and conclusions of law to each party to a case or to his or her attorney of record.

(e) Any person aggrieved by a final summary action may file an appeal in accordance with subchapter I of Chapter 15 of Title 1. (Mar. 25, 1986, D.C. Law 6-99, § 515, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

§ 2-3305.16. Cease and desist orders.

(a) When a board or the Mayor, after investigation but prior to a hearing, has cause to believe that any person is violating any provision of this chapter and the violation has caused or may cause immediate and irreparable harm to the public, the board or the Mayor may issue an order requiring the alleged violator to cease and desist immediately from the violation. The order shall be served by certified mail or delivery in person.

(b)(1) The alleged violator may, within 15 days of the service of the order, submit a written request to the board or the Mayor to hold a hearing on the alleged violation.

(2) Upon receipt of a timely request, the board or the Mayor shall conduct a hearing and render a decision pursuant to § 2-3305.19.

(c)(1) The alleged violator may, within 10 days of the service of an order, submit a written request to the board or the Mayor for an expedited hearing on the alleged violation, in which case he or she shall waive his or her right to the 15-day notice required by § 2-3305.19(d).

(2) Upon receipt of a timely request for an expedited hearing, the board or the Mayor shall conduct a hearing within 10 days of the date of receiving the request and shall deliver to the alleged violator at his or her last known address a written notice of the hearing by any means guaranteed to be received at least 5 days before the hearing date.

(3) The board or the Mayor shall issue a decision within 30 days after an expedited hearing.

(d) If a request for a hearing is not made, the order of the board or the Mayor to cease and desist is final.

(e) If, after a hearing, the board determines that the alleged violator is not in violation of this chapter, the board or the Mayor shall revoke the order to cease and desist.

(f) If any person fails to comply with a lawful order of a board or the Mayor issued pursuant to this section, the board or the Mayor may petition the court to issue an order compelling compliance or take any other action authorized by this chapter. (Mar. 25, 1986, D.C. Law 6-99, § 516, 33 DCR 729.)

**Section references.** — This section is referred to in § 2-3305.14.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Cited in** Davidson v. District of Columbia Bd. of Medicine, App. D.C., 562 A.2d 109 (1989).

§ 2-3305.17. Voluntary surrender of license.

(a) Any health professional who is the subject of an investigation into, or a pending proceeding involving, allegations involving misconduct may voluntarily surrender his or her license or privilege to practice in the District, but only by delivering to the board regulating the health occupation an affidavit stating that the health professional desires to surrender the license or privilege and that the action is freely and voluntarily taken, and not the result of duress or coercion.



(b) Upon receipt of the required affidavit, the board shall enter an order revoking or suspending the license of the health professional or the privilege to practice.

(c) The voluntary surrender of a license shall not preclude the imposition of civil or criminal penalties against the licensee. (Mar. 25, 1986, D.C. Law 6-99, § 517, 33 DCR 729.)

**Legislative history of Law 6-99.** — See Bd. of Medicine, App. D.C., 562 A.2d 109 note to § 2-3301.1. (1989).

Cited in Davidson v. District of Columbia

## **§ 2-3305.18. Voluntary limitation or surrender of license by impaired health professional.**

(a)(1) Any license issued under this chapter may be voluntarily limited by the licensee either:

(A) Permanently;

(B) For an indefinite period of time to be restored at the discretion of the board regulating the health occupation; or

(C) For a definite period of time under an agreement between the licensee and the board.

(2) During the period of time that the license has been limited, the licensee shall not engage in the practices or activities to which the voluntary limitation of practice relates.

(3) As a condition for accepting the voluntary limitation of practice, the board may require the licensee to do 1 or more of the following:

(A) Accept care, counseling, or treatment by physicians or other health professionals acceptable to the board;

(B) Participate in a program of education prescribed by the board; and

(C) Practice under the direction of a health professional acceptable to the board for a specified period of time.

(b)(1) Any license issued under this chapter may be voluntarily surrendered to the board by the licensee either:

(A) Permanently;

(B) For an indefinite period of time to be restored at the discretion of the board regulating the health occupation; or

(C) For a definite period of time under an agreement between the licensee and the board.

(2) During the period of time that the license has been surrendered, the individual surrendering the license shall not practice, attempt to practice, or offer to practice the health occupation for which the license is required, shall be considered as unlicensed, and shall not be required to pay the fees for the license.

(c) All records, communications, and proceedings of the board related to the voluntary limitation or surrender of a license under this section shall be confidential. (Mar. 25, 1986, D.C. Law 6-99, § 518, 33 DCR 729.)

**Section references.** — This section is referred to in § 2-3305.14.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Cited in** Davidson v. District of Columbia Bd. of Medicine, App. D.C., 562 A.2d 109 (1989).

## § 2-3305.19. Hearings.

(a) Before a board denies an applicant a license, revokes or suspends a license or privilege to practice, reprimands a licensee, imposes a civil fine, requires a course of remediation or a period of probation, or denies an application for reinstatement, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the board.

(b) A board, at its discretion, may request the applicant or licensee to attend a settlement conference prior to holding a hearing under this section, and may enter into negotiated settlement agreements and consent decrees to carry out its functions.

(c) Except to the extent that this chapter specifically provides otherwise, a board shall give notice and hold the hearing in accordance with subchapter I of Chapter 15 of Title 1.

(d) The hearing notice to be given to the individual shall be sent by certified mail to the last known address of the individual at least 15 days before the hearing.

(e) The individual may be represented at the hearing by counsel.

(f)(1) A board may administer oaths and require the attendance and testimony of witnesses and the production of books, papers, and other evidence in connection with any proceeding under this section.

(2) A board shall require the attendance of witnesses and the production of books, papers, and other evidence reasonably requested by the person against whom an action is contemplated.

(3) In case of contumacy by or refusal to obey a subpoena issued by the board to any person, a board may refer the matter to the Superior Court of the District of Columbia, which may by order require the person to appear and give testimony or produce books, papers, or other evidence bearing on the hearing. Refusal to obey such an order shall constitute contempt of court.

(g) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, a board may nevertheless hear and determine the matter.

(h) A board shall issue its decision in writing within 60 days after conducting a hearing. (Mar. 25, 1986, D.C. Law 6-99, § 519, 33 DCR 729.)

**Section references.** — This section is referred to in §§ 2-3303.2 and 2-3305.16.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Nature of subsection (h).** — In view of the governmental interests at stake, subsection (h) of this section appears to be more in the nature of a precatory directive than a jurisdictional

prerogative. Mannan v. District of Columbia Bd. of Medicine, App. D.C., 558 A.2d 329 (1989).

**Cited in** Salama v. District of Columbia Bd. of Medicine, App. D.C., 578 A.2d 693 (1990); Greenlee v. Board of Medicine, 813 F. Supp. 48 (D.D.C. 1993).

## **§ 2-3305.20. Judicial and administrative review of actions of board.**

Any person aggrieved by a final decision of a board or the Mayor may appeal the decision to the District of Columbia Court of Appeals pursuant to § 1-1510. (Mar. 25, 1986, D.C. Law 6-99, § 520, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

## **§ 2-3305.21. Reinstatement of suspended or revoked license.**

(a) Except as provided in subsection (b) of this section, a board may reinstate the license or privilege of an individual whose license or privilege has been suspended or revoked by the board only in accordance with:

- (1) The terms and conditions of the order of suspension or revocation; or
- (2) A final judgment or order in any proceeding for review.

(b)(1) If an order of suspension or revocation was based on the conviction of a crime which bears directly on the fitness of the individual to be licensed, and the conviction subsequently is overturned at any stage of an appeal or other postconviction proceeding, the suspension or revocation shall end when the conviction is overturned.

(2) After the process of review is completed, the clerk of the court issuing the final disposition of the case shall notify the board or the Mayor of that disposition. (Mar. 25, 1986, D.C. Law 6-99, § 521, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

## ***Subchapter VI. Advanced Registered Nursing; Scope of Practice; Requirement of Protocol; Collaboration.***

### **§ 2-3306.1. General authorization.**

(a) The advanced registered nurse may perform actions of medical diagnosis, treatment, prescription, and other functions authorized by this subchapter in collaboration with a physician, osteopath, or dentist, who shall be responsible for the overall medical direction of the health care team.

(b) Collaboration shall be at the level required by this chapter, or at a higher level. (Mar. 25, 1986, D.C. Law 6-99, § 601, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.



## § 2-3306.2. Requirements of protocols.

(a)(1) Except as provided by paragraph (3) of this subsection, an advanced registered nurse shall enter into a protocol with a collaborating physician, osteopath, or dentist, as a condition for performing the actions authorized by this subchapter.

(2) A physician entering into a protocol with a nurse-midwife shall be an obstetrician-gynecologist. A physician entering into a protocol with a nurse-anesthetist shall be an anesthesiologist or shall have had training and experience in administering intravenous sedation for the procedures to be performed. A dentist entering into a protocol with a nurse-anesthetist shall have had training and experience in administering the techniques and agents of anesthesia. A physician or osteopath entering into a protocol with a nurse-practitioner shall be engaged in a field of practice comparable to the nurse-practitioner's field of practice.

(3) The protocol requirement shall not apply to an advanced registered nurse directly employed by or practicing in a hospital, health maintenance organization, ambulatory surgical facility, or other similar facility or agency licensed to operate in the District, and practicing in accordance with procedures or protocols of the hospital, facility, or agency which require at least the minimum levels of collaboration required by this chapter.

(b) The protocol shall be signed by both parties, notarized, and available for review on request by the Mayor, the Board of Nursing, the Board of Medicine, and, when applicable, the Board of Dentistry. (Mar. 25, 1986, D.C. Law 6-99, § 602, 33 DCR 729.)

**Section references.** — This section is referred to in §§ 2-3306.5, 2-3306.6 and 2-3306.7.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

## § 2-3306.3. Collaboration.

(a) Generally, nurse-midwives and nurse-practitioners shall carry out acts of advanced registered nursing in general collaboration with a physician or osteopath.

(b) Generally, nurse-anesthetists shall carry out acts of advanced registered nursing in direct collaboration with an anesthesiologist, other physician, or dentist.

(c) In accordance with this section:

(1) In collaborations between physicians, osteopaths, and dentists, and advanced registered nurses, the collaborating parties may establish by protocol higher levels of collaboration for specific acts or specific circumstances.

(2) A hospital, facility, or agency may require higher levels of collaboration by physicians, osteopaths, and dentists, and advanced registered nurses subject to its protocols, procedures, or processes for establishing and verifying credentials when, in the opinion of the appropriate hospital, facility, or agency authorities, a higher level of collaboration is necessary to promote safety and quality care, as authorized by §§ 32-1304(g) and 32-1307.

(d) Notwithstanding the provisions of subsection (c) of this section, hospitals, facilities, and agencies in requiring higher levels of collaboration, and

physicians, osteopaths, and dentists, and advanced registered nurses in agreeing to higher levels of collaboration, shall apply reasonable, nondiscriminatory standards, free of anticompetitive intent or purpose, in accordance with Chapter 25 of Title 1, Chapter 45 of Title 28, and § 32-1307. (Mar. 25, 1986, D.C. Law 6-99, § 603, 33 DCR 729.)

**Section references.** — This section is referred to in §§ 2-3306.5, 2-3306.6 and 2-3306.7.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

#### § 2-3306.4. Authorized acts.

Within the established protocol, an advanced registered nurse may:

- (1) Monitor and alter drug therapies;
- (2) Initiate appropriate therapies for certain conditions;
- (3) Make referrals for physical therapy; and
- (4) Perform additional functions within his or her specialty determined in accordance with §§ 2-3306.5, 2-3306.6, and 2-3306.7. (Mar. 25, 1986, D.C. Law 6-99, § 604, 33 DCR 729.)

**Section references.** — This section is referred to in §§ 2-3306.5, 2-3306.6 and 2-3306.7.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

#### § 2-3306.5. Nurse-anesthesia.

(a) In addition to the general functions specified in § 2-3306.4, a nurse-anesthetist may perform any or all of the actions in subsection (b) of this section, provided that:

(1) The nurse-anesthetist has entered into a protocol pursuant to § 2-3306.2; and

(2) The action is done in accordance with § 2-3306.3.

(b) The nurse-anesthetist may:

(1) Determine the health status of the patient as it relates to the relative risks associated with the anesthetic management of the patient through the performance of the operative procedures;

(2) Based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the collaborating anesthesiologist, other physician, or dentist, the appropriate type of anesthesia within the framework of the protocol;

(3) Order, pursuant to the protocol, preanesthetic medication;

(4) Perform, pursuant to the protocol, procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. This shall include ordering and administering (A) general and regional, including spinal, anesthesia; (B) inhalation agents and techniques; (C) intravenous agents and techniques; and (D) techniques of hypnosis; except that a nurse-anesthetist collaborating with a nonanesthesiologist physician shall be limited to ordering and administering intravenous sedation, and a nurse-anesthetist collaborating with a dentist shall be limited to ordering and administering anesthesia appropriate for dental procedures;

(5) Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient;

(6) Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances;

(7) Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy;

(8) Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care;

(9) Participate in management of the patient while in the postanesthesia recovery area, including ordering the administration of fluids and drugs; and

(10) Place peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, a qualified advanced registered nurse, without collaborating with an anesthesiologist, other physician, or dentist, may initiate and perform local anesthetic procedures and order necessary anesthetic agents to perform the procedures. (Mar. 25, 1986, D.C. Law 6-99, § 605, 33 DCR 729.)

**Section references.** — This section is referred to in § 2-3306.4.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

## § 2-3306.6. Nurse-midwifery.

(a) In addition to the general functions specified in § 2-3306.4, the nurse-midwife may perform any of the acts in subsection (b) of this section, provided that:

(1) The nurse-midwife has entered into a protocol pursuant to § 2-3306.2;

(2) The nurse-midwife and the obstetrician-gynecologist have set forth in the protocol procedures for:

(A) Consultation with each other about patient conditions during the antepartum, intrapartum, and postpartum phases of maternity care, and during gynecological care, including consultations for the purpose of ensuring that the medical care provided by the nurse-midwife is for the normal obstetrical or gynecological patient as required by subsection (b)(1), (3) and (6) of this section; and

(B) Emergency care to protect the health of the mother and infant;

(3) The patient has been advised and informed of the responsibilities of the obstetrician-gynecologist and the nurse-midwife; and

(4) The act is done in accordance with § 2-3306.3.

(b) The nurse-midwife may:

(1) Manage the medical care of the normal obstetrical patient;

(2) Perform superficial minor surgical procedures;

(3) Manage the normal obstetrical patient during labor and delivery to include amniotomy, episiotomy, and repair;

(4) Initiate and perform local anesthetic procedures and order the necessary anesthetic agents to perform the procedures;



- (5) Perform postpartum examination;
- (6) Provide gynecological care for the essentially normal woman;
- (7) Prescribe appropriate medications; and
- (8) Provide family planning services. (Mar. 25, 1986, D.C. Law 6-99, § 606, 33 DCR 729.)

**Section references.** — This section is referred to in § 2-3306.4.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

### § 2-3306.7. Nurse-practitioner practice.

In addition to the general functions specified in § 2-3306.4, the nurse-practitioner may perform any or all of the following acts provided that the nurse-practitioner has entered into a protocol pursuant to § 2-3306.2, and the act is done in accordance with § 2-3306.3:

- (1) Manage selected medical problems;
- (2) Initiate, monitor, or alter therapies for certain uncomplicated, acute illnesses;
- (3) Initiate appropriate treatments and medications, and alter dosage; and
- (4) Monitor and manage patients with stable, chronic diseases. (Mar. 25, 1986, D.C. Law 6-99, § 607, 33 DCR 729.)

**Section references.** — This section is referred to in § 2-3306.4.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

### § 2-3306.8. Qualifications, certification.

(a) In addition to the general qualifications for licensure set forth in subchapter V of this chapter, and any requirements which the Mayor may establish by rule, a nurse-anesthetist shall:

- (1) Be a registered nurse holding a current, valid license pursuant to subchapter V of this chapter, and be in good standing with the Board, with no action pending or in effect against the license which could adversely affect the legal right to practice;
- (2) Be in good ethical standing within the profession;
- (3) Be a graduate of a nurse-anesthesia educational program or school accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs/Schools of the American Association of Nurse Anesthetists, and have met all the criteria and requirements in theory and clinical practice to apply for certification; and
- (4) Successfully complete the comprehensive, certifying examination administered by the Council on Certification of Nurse-Anesthetists of the American Association of Nurse Anesthetists, demonstrating basic scientific knowledge of and competent judgment in nurse-anesthesia practice.

(b) In addition to the general qualifications for licensure set forth in subchapter V of this chapter, and any requirements which the Mayor may establish by rule, a nurse-midwife shall:

(1) Be a registered nurse holding a current valid license pursuant to subchapter V of this chapter, and be in good standing with the Board, with no action pending or in effect against the license which could adversely affect the legal right to practice;

(2) Be in good ethical standing within the profession;

(3) Be a graduate of a nurse-midwifery educational program approved by the American College of Nurse-Midwives;

(4) Have undertaken the care of not less than 20 women in each of the antepartum, intrapartum, and early postpartum periods, but the same women need not be seen through all 3 periods, and have observed an additional 20 women in the intrapartum periods before qualifying as a candidate for certification by the Board; and

(5) Pass the national certification examination of the American College of Nurse-Midwives and any additional examination required by the Board.

(c) In addition to the general qualifications for licensure set forth in subchapter V of this chapter, and any requirements which the Mayor may establish by rule, a nurse-practitioner shall:

(1) Be a registered nurse holding a current valid license pursuant to subchapter V of this chapter, and be in good standing with the Board, with no action pending or in effect against the license which could adversely affect the legal right to practice;

(2) Be in good ethical standing within the profession;

(3) Have successfully completed a post-basic education program applicable to the area of practice which is acceptable to the Board or accredited by a national accrediting body and which is relevant to the nurse-practitioner's area of practice; and

(4) Pass the examination required by the Mayor. (Mar. 25, 1986, D.C. Law 6-99, § 608, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

*Subchapter VII. Qualifications for Licensure  
to Practice Dietetics and Nutrition;  
Waiver of Examination.*

**§ 2-3307.1. Qualifications for licensure.**

(a) In addition to the general qualifications for licensure set forth in subchapter V of this chapter, and any requirements which the Mayor may establish by rule, a dietitian shall:

(1) Hold a baccalaureate or higher degree with a major in human nutrition, foods and nutrition, dietetics, food systems management, or an equivalent major course of study, approved by the Board, from a school, college, or university that was approved by the appropriate accrediting body recognized by the Council on Postsecondary Accreditation or the United States Department of Education at the time the degree was conferred; and

(2) Successfully complete the certification examination of the Commission on Dietetic Registration of the American Dietetic Association.

(b) Licensure to practice dietetics pursuant to this chapter shall also entitle the licensee to use the title of nutritionist.

(c) In addition to the general qualifications for licensure set forth in subchapter V of this chapter, and any requirements which the Mayor may establish by rule, a nutritionist shall:

(1) Hold a baccalaureate or higher degree with a major in human nutrition, food and nutrition, dietetics, food systems management, or an equivalent major course of study, approved by the Board, from a school, college, or university that was approved by the appropriate accrediting body recognized by the Council on Postsecondary Accreditation or the United States Department of Education at the time the degree was conferred, or shall have completed other training, approved by the Board, which is substantially equivalent to the curricula of accredited institutions; and

(2) Successfully complete the examination developed and required by the Mayor and administered by the Board.

(d) The Mayor, by rule, shall establish requirements for the completion of a planned, continuous, preprofessional program of supervised experience as a condition for licensure as a dietitian or nutritionist.

(e) The Mayor shall, within 12 months of March 25, 1986, develop, and update as necessary, an examination to assess an applicant's knowledge and understanding of the principles of nutrition and ability to apply the principles effectively and for the benefit of patients or clients in the practice of nutrition. (Mar. 25, 1986, D.C. Law 6-99, § 701, 33 DCR 729; Feb. 24, 1987, D.C. Law 6-192, § 8, 33 DCR 7836.)

**Section references.** — This section is referred to in § 2-3307.2.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 6-192.** — Law 6-192, the "Technical Amendments Act of 1986," was introduced in Council and assigned

Bill No. 6-544, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 5, 1986, and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

## § 2-3307.2. Waiver of examination.

The board shall waive the examination requirement of § 2-3307.1(a)(2) and (c)(2) for any applicant for licensure as a dietitian or nutritionist who presents evidence satisfactory to the Board that the applicant meets the qualifications required by § 2-3307.1(a)(1) or § 2-3307.1(c)(1) and has been employed in the practice of dietetics or nutrition on a full-time or substantially full-time basis for at least 3 of the last 5 years immediately preceding March 25, 1986, provided that application for the waiver is made within 24 months of March 25, 1986. (Mar. 25, 1986, D.C. Law 6-99, § 702, 33 DCR 729; July 25, 1987, D.C. Law 7-20, § 2(a), 34 DCR 3814; Mar. 11, 1988, D.C. Law 7-87, § 2(a), 35 DCR 162.)



**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 7-20.** — Law 7-20, the "District of Columbia Health Occupations Revision Act of 1985 Temporary Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-210. The Bill was adopted on first and second readings on May 5, 1987 and May 19, 1987, respectively. Signed by the Mayor on June 1, 1987, it was assigned Act No. 7-34 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-87.** — Law 7-87, the "District of Columbia Health Occupa-

tions Revision Act of 1985 Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-211, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 24, 1987 and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-125 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — Near the middle of the section, "(c)(1)" was substituted for "(b)(1)", to correct an error in D.C. Law 6-99.

### *Subchapter VII-A. Qualifications for Licensure to Practice Professional Counseling; Transition of Professional Counselors; Waiver of Licensure Requirements.*

#### **§ 2-3307.10. Qualifications for licensure.**

The Board of Professional Counseling shall license as a professional counselor a person who, in addition to meeting the requirements of subchapter V of this chapter, has satisfactorily completed the examination process, has completed 60 hours of postgraduate education in counseling or a related subject from an accredited college or university, and has completed 2 years of supervised counseling experience. (Mar. 25, 1986, D.C. Law 6-99, § 710, as added July 22, 1992, D.C. Law 9-126, § 2(g), 39 DCR 3824.)

**Effect of amendments.** — D.C. Law 9-126 added this section.

**Legislative history of Law 9-126.** — See note to § 2-3302.13.

#### **§ 2-3307.11. Transition of professional counselors.**

For a period of 2 years following July 22, 1992, all reference to a professional counselor shall be deemed to refer to a person meeting the requirements for licensure in the District, regardless of whether that person is licensed. (Mar. 25, 1986, D.C. Law 6-99, § 711, as added July 22, 1992, D.C. Law 9-126, § 2(g), 39 DCR 3824.)

**Effect of amendments.** — D.C. Law 9-126 added this section.

**Legislative history of Law 9-126.** — See note to § 2-3302.13.

#### **§ 2-3307.12. Waiver of licensure requirements.**

(a) The Board of Professional Counseling shall waive the 60 hours of postgraduate education and examination requirements for any applicant for licensure as a professional counselor who can demonstrate, to the satisfaction of the Board, that he or she holds a bachelor's degree in counseling or a related subject from an accredited college or university and has been performing the functions of a professional counselor, as defined by this subchapter, on a full-time or substantially full-time basis continually for at least 24 months imme-

diately preceding July 22, 1992, and is qualified to do so on the basis of pertinent education, training, experience, and demonstrated current competence, provided that the application for licensure is made within 24 months of July 22, 1992.

(b) The Board of Professional Counseling shall waive the examination requirement for any applicant who meets the educational requirements for licensure as a professional counselor if the person has practiced as a professional counselor or as a professional counselor administrator within a 3-year period immediately preceding July 22, 1992, and is qualified to do so on the basis of pertinent experience and demonstrated current competence, provided that the application for licensure is made within 12 months of July 22, 1992.

(c) Applicants licensed under the waiver provisions of this section shall be eligible for license renewal on the same terms as all other licensed professional counselors. (Mar. 25, 1986, D.C. Law 6-99, § 712, as added July 22, 1992, D.C. Law 9-126, § 2(g), 39 DCR 3824.)

**Effect of amendments.** — D.C. Law 9-126 added this section.

**Legislative history of Law 9-126.** — See note to § 2-3302.13.

### *Subchapter VIII. Categories and Qualification of Social Workers.*

#### **§ 2-3308.1. Licensed social work associate.**

(a) The Board of Social Work shall license as a social work associate a person who, in addition to meeting the requirements of subchapter V of this chapter, has a baccalaureate degree ("B.S.W.") from a social work program accredited by the Council of Social Work Education, and has satisfactorily completed the examination process at the associate level.

(b) A licensed social work associate ("L.S.W.A.") may perform case work, group work, and community organization services under the supervision of a social worker licensed under § 2-3308.3 or 2-3308.4. (Mar. 25, 1986, D.C. Law 6-99, § 801, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

#### **§ 2-3308.2. Licensed graduate social worker.**

(a) The Board of Social Work shall license as a graduate social worker a person who, in addition to meeting the requirements of subchapter V of this chapter, has a master's degree or a doctorate from a social work program accredited by the Council on Social Work Education, and has satisfactorily completed the examination process at the graduate level.

(b) A licensed graduate social worker ("L.G.S.W.") may perform any function described as the practice of social work in this chapter, other than psychotherapy, under the supervision of a social worker licensed under § 2-3308.3 or 2-3308.4, and may perform psychotherapy under the supervision of a social

worker licensed under § 2-3308.4. (Mar. 25, 1986, D.C. Law 6-99, § 802, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

### **§ 2-3308.3. Licensed independent social worker.**

(a) The Board of Social Work shall license as an independent social worker a person who, in addition to meeting the requirements of subchapter V of this chapter, has a master's degree or a doctorate from a social work program accredited by the Council on Social Work Education, has satisfactorily completed the examination process at the independent level, and has at least 3,000 hours post-master's or postdoctoral experience under the supervision of a licensed independent social worker over a period of not less than 2 or more than 4 years.

(b) A licensed independent social worker ("L.I.S.W.") may perform any function described as the practice of social work in this chapter, other than the diagnosis or treatment (including psychotherapy) of psychosocial problems, in an autonomous, self-regulated fashion, in an agency setting or independently, and may direct other persons in the performance of these functions. (Mar. 25, 1986, D.C. Law 6-99, § 803, 33 DCR 729.)

**Section references.** — This section is referred to in §§ 2-3308.1 and 2-3308.2.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

### **§ 2-3308.4. Licensed independent clinical social worker.**

(a) The Board of Social Work shall license as an independent clinical social worker a person who, in addition to meeting the requirements of subchapter V of this chapter, has a master's degree or a doctorate from a social work program accredited by the Council on Social Work Education, has satisfactorily completed the examination process at the independent clinical level, and has at least 3,000 hours of post-master's or postdoctoral experience participating in the diagnosis and treatment of individuals, families, and groups with psychosocial problems, under the supervision of a licensed independent clinical social worker over a period of not less than 2 years or more than 4 years; under special circumstances approved by the Board, supervision by a licensed psychiatrist or psychologist may be substituted for up to 1500 hours of this requirement.

(b) A licensed independent clinical social worker ("L.I.C.S.W.") may perform any function described as the practice of social work in this chapter, in an autonomous, self-regulated fashion, in an agency setting or independently, and may supervise other persons in the performance of these functions. A licensed independent clinical social worker shall not engage in the practice of medicine and shall refer patients or clients with apparent medical problems to an appropriate and qualified medical practitioner. (Mar. 25, 1986, D.C. Law 6-99, § 804, 33 DCR 729.)



**Section references.** — This section is referred to in §§ 2-3308.1, 2-3308.2 and 35-2301.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

### § 2-3308.5. Transition.

For a period of 2 years following March 25, 1986, all references in this subchapter to supervision by licensed social workers shall be deemed to refer to supervision by persons meeting the requirements for licensure in the District, regardless of whether they are licensed in fact. (Mar. 25, 1986, D.C. Law 6-99, § 805, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

### § 2-3308.6. Waiver of requirements.

(a) The Board of Social Work shall waive the educational and examination requirements for any applicant for licensure as a social worker who can demonstrate, to the satisfaction of the Board, that he or she has been performing the functions of a social worker, as defined in this chapter, on a full-time or substantially full-time basis continually at least 12 months immediately preceding March 25, 1986, and is qualified to do so on the basis of pertinent education, training, experience, and demonstrated current competence, provided that application for the license is made within 24 months of March 25, 1986.

(b) The Board of Social Work shall waive the examination requirement for any applicant who meets the educational requirements for licensure as a social worker, has practiced as a social worker or as a social work administrator, whether full time or not, within a 3-year period immediately preceding March 25, 1986, and is qualified to do so on the basis of pertinent experience, and demonstrated current competence, provided that application for the license is made within 24 months of March 25, 1986.

(c) Applicants licensed under the waiver provisions of this section shall be eligible for license renewal on the same terms as all other licensed social workers. (Mar. 25, 1986, D.C. Law 6-99, § 806, 33 DCR 729; July 25, 1987, D.C. Law 7-20, § 2(b), 34 DCR 3814; Mar. 11, 1988, D.C. Law 7-87, § 2(b), 35 DCR 162.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 7-20.** — See note to § 2-3307.2.

**Legislative history of Law 7-87.** — See note to § 2-3307.2.

**Editor's notes.** — In subsection (c), "section" was substituted for "subsection," to correct an error in D.C. Law 6-99.

*Subchapter IX. Related Occupations; Registration Requirements; Prohibited Actions.*

**§ 2-3309.1. Naturopathy.**

(a) Any person who practices or offers to practice naturopathy or naturopathic healing in the District shall register with the Mayor on forms prescribed by the Mayor, reregister at intervals the Mayor may require by rule, and pay the registration fee established by the Mayor.

(b) A person registered to practice naturopathy or naturopathic healing may counsel individuals and treat human conditions through the use of naturally occurring substances in accordance with the requirements of this chapter.

(c) Practitioners of naturopathy or naturopathic healing shall provide to all clients or patients a written notice stating that the practitioner, unless licensed to practice medicine in the District, does not practice the application of scientific principles to prevent, diagnose, and treat physical and mental diseases, disorders, and conditions and to safeguard the life and health of any woman and infant through pregnancy and parturition, and shall post an identical notice in a prominent place, in printing of a size to be easily readable, in each office or location of practice.

(d) Practitioners of naturopathy or naturopathic healing may use the title "Doctor of Naturopathy."

(e) It shall be unlawful for a practitioner of naturopathy or naturopathic healing to:

(1) By use of a title or description of services, falsely lead any person to believe the practitioner practices medicine as defined in § 2-3301.2(7);

(2) Use X-rays, perform any surgical procedure, inject any substance into another person by needle, or perform any invasive procedure on another person;

(3) Deliver infants;

(4) Prescribe for or provide to another person any drug, substance, or device regulated by the laws of the District or federal governments or available by prescription only; or

(5) File birth or death certificates or sign claims or authorization for payment of workers' compensation benefits, Medicare or Medicaid benefits, or benefits provided for health care through other publicly assisted programs. (Mar. 25, 1986, D.C. Law 6-99, § 901, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

## § 2-3309.2. Dance and recreation therapy.

(a) Any person who practices or offers to practice dance therapy or recreation therapy in the District shall register with the Mayor on forms prescribed by the Mayor, reregister at intervals the Mayor may require by rule, and pay the registration fee established by the Mayor.

(b) A person registered to practice dance therapy or recreation therapy may employ the theories and techniques of the profession, in accordance with appropriate ethical requirements, to aid in the restoration and rehabilitation of mental and physical functions.

(c) The Mayor shall, by rule, set forth standards of education and experience required to qualify for registration as a dance therapist or recreation therapist and, in doing so, may adopt the standards of the recognized national professional associations of dance therapists or recreation therapists. (Mar. 25, 1986, D.C. Law 6-99, § 902, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

## § 2-3309.3. Registered acupuncture therapist.

(a) For the purposes of this section, “registered acupuncture therapist” means a person who has successfully completed a program in acupuncture therapy approved by the Advisory Committee on Acupuncture and the Board of Medicine for the specific purpose of treating drug and alcohol abuse in a clinical setting and who does not otherwise possess the credentials or qualifications for the practice of acupuncture as required by § 2-3305.4.

(b) A person who is engaged as an acupuncture therapist in the District shall register with the Mayor, renew the registration as required by rule, and pay the required registration fee established by the Mayor.

(c) Any person registered to practice as an acupuncture therapist shall practice under the direct collaboration of a person licensed to practice acupuncture or a physician licensed to practice acupuncture.

(d) The Mayor, in accordance with the provisions of subchapter I of Chapter 15 of Title 1, shall issue rules setting forth the standards of education and experience required to qualify for registration as an acupuncture therapist. (Mar. 25, 1986, D.C. Law 6-99, § 903, as added Mar. 20, 1992, D.C. Law 9-77, § 2, 39 DCR 669.)

**Effect of amendments.** — D.C. Law 9-77 added this section.

**Legislative history of Law 9-77.** — Law 9-77, the “Health Occupations Revision Act of 1985 Acupuncture Practice Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-18, which was referred to the Committee on Consumer and Regulatory Affairs.

The Bill was adopted on first and second readings on December 3, 1991, and January 7, 1992, respectively. Signed by the Mayor on January 28, 1992, it was assigned Act No. 9-134 and transmitted to both Houses of Congress for its review. D.C. Law 9-77 became effective on March 20, 1992.



§ 2-3309.4. **Addiction counselor.**

(a) For the purposes of this section, the term "addiction counselor" means a person who possesses and utilizes a unique knowledge and skill base to assist (i) substance abusers; (ii) a person or group affected by a problem related to substance abuse; or (iii) the public for whom the prevention of substance abuse is a primary concern. This knowledge and skill base may be attained through a combination of specialized training, education, supervised work experience, and life experience.

(b) A person who is engaged as an addiction counselor in the District shall register with the Mayor, renew the registration as required by rule, and pay the required registration fee established by the Mayor.

(c) A person registered to practice as an addiction counselor may assist substance abusers, persons affected by problems related to substance abuse, and the public.

(d) The Mayor, in accordance with the provisions of subchapter I of Chapter 15 of Title 1, shall issue rules setting forth the required standards for education and experience needed to qualify as a registered addiction counselor. The Mayor may adopt the standards of a recognized professional association of addiction counselors. (Mar. 25, 1986, D.C. Law 6-99, § 904, as added July 22, 1992, D.C. Law 9-126, § 2(h), 39 DCR 3824.)

**Effect of amendments.** — D.C. Law 9-126 added this section.

**Legislative history of Law 9-126.** — See note to § 2-3302.13.

*Subchapter X. Prohibited Acts; Penalties; Injunctions.*

§ 2-3310.1. **Practicing without license.**

No person shall practice, attempt to practice, or offer to practice a health occupation licensed or regulated under this chapter in the District unless currently licensed, or exempted from licensing, under this chapter. (Mar. 25, 1986, D.C. Law 6-99, § 1001, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

§ 2-3310.2. **Misrepresentation.**

Unless authorized to practice a health occupation under this chapter, a person shall not represent to the public by title, description of services, methods, or procedures, or otherwise that the person is authorized to practice the health occupation in the District. (Mar. 25, 1986, D.C. Law 6-99, § 1002, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**§ 2-3310.3. Certain representations prohibited.**

(a) Unless authorized to practice acupuncture under this chapter, a person shall not use or imply the use of the words or terms "acupuncture," "acupuncturist," or any similar title or description of services with the intent to represent that the person practices acupuncture.

(b) Unless authorized to practice advanced registered nursing under this chapter, a person shall not use or imply the use of the words or terms "advanced registered nurse," "nurse-anesthetist," "nurse-midwife," "nurse-practitioner," or any other similar title or description of services with the intent to represent that the person practices advanced registered nursing.

(c) Unless authorized to practice chiropractic under this chapter, a person shall not use or imply the use of the words or terms "chiropractic," "chiropractor," "Doctor of Chiropractic," "D.C.," or any similar title or description of services with the intent to represent that the person practices chiropractic.

(d) Unless authorized to practice dentistry under this chapter, a person shall not use or imply the use of the words or terms "dentistry," "dentist," "D.D.S.," "D.M.D.," "endodontist," "oral surgeon," "maxillofacial surgeon," "oral pathologist," "orthodontist," "pedodontist," "periodontist," "prosthodontist," "public health dentist," or any similar title or description of services with the intent to represent that the person practices dentistry.

(e) Unless authorized to practice dentistry or dental hygiene under this chapter, a person shall not use or imply the use of the words or terms "dental hygiene," "dental hygienist," or similar title or description of services with the intent to represent that the person practices dental hygiene.

(f) Unless authorized to practice dietetics or nutrition under this chapter, a person shall not use or imply the use of the words or terms "dietitian/nutritionist," "licensed dietitian," "licensed nutritionist," "dietitian," "nutritionist," "L.D.N.," "L.D.," "L.N.," or any similar title or description of services with the intent to represent that the person practices dietetics or nutrition.

(g) Unless authorized to practice medicine under this chapter, a person shall not use or imply the use of the words or terms "physician," "surgeon," "medical doctor," "doctor of osteopathy," "M.D.," "anesthesiologist," "cardiologist," "dermatologist," "endocrinologist," "gastroenterologist," "general practitioner," "gynecologist," "hematologist," "internist," "laryngologist," "nephrologist," "neurologist," "obstetrician," "oncologist," "ophthalmologist," "orthopedic surgeon," "orthopedist," "osteopath," "otologist," "otolaryngologist," "otorhinolaryngologist," "pathologist," "pediatrician," "primary care physician," "proctologist," "psychiatrist," "radiologist," "rheumatologist," "rhinologist," "urologist," or any similar title or description of services with the intent to represent that the person practices medicine.

(h) Unless authorized to practice nursing home administration under this chapter, a person shall not use the words or terms "nursing home administration," "nursing home administrator," "N.H.A.," or any similar title or description of services with the intent to represent that the person practices nursing home administration.

(i) Unless authorized to practice occupational therapy under this chapter, a person shall not use the words or terms "occupational therapy," "occupational therapist," "licensed occupational therapist," "O.T.," "O.T.R.," "L.O.T.," or any similar title or description of services with the intent to represent that the person practices occupational therapy.

(j) Unless authorized to practice as an occupational therapy assistant under this chapter, a person shall not use the words or terms "occupational therapy assistant," "licensed occupational therapy assistant," "certified occupational therapy assistant," "O.T.A.," "L.O.T.A.," "C.O.T.A.," or any similar title or description of services with the intent to represent that the person practices as an occupational assistant.

(k) Unless authorized to practice optometry under this chapter, a person shall not use the words or terms "optometry," "optometrist," "Doctor of Optometry," "contactologist," "O.D.," or any similar title or description of services with the intent to represent that the person practices optometry.

(l) Unless authorized to practice pharmacy under this chapter, a person shall not use the words or terms "pharmacy," "pharmacist," "druggist," "registered pharmacist," "R.Ph.," "Ph.G.," or any similar title or description of services with the intent to represent that the person practices pharmacy.

(m) Unless authorized to practice physical therapy under this chapter, a person shall not use the words or terms "physical therapy," "physical therapist," "physiotherapist," "physical therapy technician," "P.T.," "L.P.T.," "R.P.T.," "P.T.T.," or any similar title or description of services with the intent to represent that the person practices physical therapy.

(n) Unless authorized to practice as a physician assistant under this chapter, a person shall not use or imply the use of the words or terms "physician assistant," "P.A.," "surgeon's assistant," or any similar title or description of services with the intent to represent that the person practices as a physician assistant.

(o) Unless authorized to practice podiatry under this chapter, a person shall not use the words or terms "podiatry," "podiatrist," "podiatric," "foot specialist," "foot correctionist," "foot expert," "practipedist," "podologist," "D.P.M.," or any similar title or description of services with the intent to represent that the person practices podiatry.

(p) Unless authorized to practice practical nursing under this chapter, a person shall not use the words or terms "practical nurse," "licensed practical nurse," "L.P.N.," or any similar title or description of services with the intent to represent that the person practices practical nursing.

(q) Unless authorized to practice psychology under this chapter, a person shall not use the words or terms "psychology," "psychologist," or similar title or description of services with the intent to represent that the person practices psychology.

(r) Unless authorized to practice registered nursing under this chapter, a person shall not use the words or terms "registered nurse," "certified nurse," "graduate nurse," "trained nurse," "R.N.," or any similar title or description of services with the intent to represent that the person practices registered nursing.



(s) Unless authorized to practice social work under this chapter, a person shall not use the words or terms "social worker," "clinical social worker," "graduate social worker," "independent social worker," "licensed independent social worker," "L.I.S.W.," "licensed independent clinical social worker," "L.I.C.S.W.," or any similar title or description of services with the intent to represent that the person practices social work.

(t) Unless authorized to practice professional counseling pursuant to this chapter, a person shall not use the phrase "licensed professional counselor", or any similar title or description of services with the intent to represent that the person practices professional counseling. Nothing in this subsection shall restrict the use of the generic terms "counseling" or "counselor". (Mar. 25, 1986, D.C. Law 6-99, § 1003, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(i), 39 DCR 3824.)

**Effect of amendments.** — D.C. Law 9-126 added (t).

**Legislative history of Law 9-126.** — See note to § 2-3302.13.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

#### **§ 2-3310.4. Filing false document or evidence; false statements.**

(a) No person shall file or attempt to file with any board or the Mayor any statement, diploma, certificate, credential, or other evidence if the person knows, or should know, that it is false or misleading.

(b) No person shall knowingly make a false statement that is in fact material under oath or affirmation administered by any board or hearing officer. (Mar. 25, 1986, D.C. Law 6-99, § 1004, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

#### **§ 2-3310.5. Fraudulent sale, obtaining, or furnishing of documents.**

No person shall sell or fraudulently obtain or furnish any diploma, license, certificate or registration, record, or other document required by this chapter, by any board, or by the Mayor. (Mar. 25, 1986, D.C. Law 6-99, § 1005, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

#### **§ 2-3310.6. Restrictions relating to pharmacies.**

(a) Nothing in this chapter regulating the practice of pharmacy shall be construed as altering or affecting in any way District or federal laws requiring a written prescription for controlled substances or other dangerous drugs.

(b)(1) No pharmacist shall supervise more than 1 pharmacy intern at a time without prior approval of the Board of Pharmacy.

(2) No one other than a licensed pharmacist shall receive an oral prescription for Schedule II controlled substances.

(3) It shall be unlawful for a pharmacy intern to compound or dispense any drug by prescription in the District except while in the presence of and under the immediate supervision of a pharmacist.

(4) Any person engaging in the practice of pharmacy as a pharmacy intern shall register with the Mayor and shall comply with the applicable provisions of this chapter and Chapter 20 of this title. (Mar. 25, 1986, D.C. Law 6-99, § 1006, 33 DCR 729.)

**Cross references.** — As to enumeration of Schedule II controlled substances, see § 33-516.

**Temporary addition of section.** — Section 2 of D.C. Law 9-258 and § 2 of D.C. Law 10-84 each added identical provisions designated as § 2-3310.6a which read as follows:

**"§ 2-3310.6a. Pharmacist consultation with medical assistance recipient or caregivers; records.**

"(a) A pharmacist who provides prescription services to medical assistance recipients shall offer to discuss with each medical assistance recipient or caregiver who presents a prescription order for outpatient drugs any matter which, in the exercise of the pharmacist's professional judgment, the pharmacist deems significant, which may include the following:

"(1) The name and description of the medication;

"(2) The dosage form, dosage, route of administration, and duration of drug therapy;

"(3) Special directions, precautions for preparation, administration, and use by the patient;

"(4) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;

"(5) Techniques for self-monitoring drug therapy;

"(6) Proper storage;

"(7) Prescription refill information; and

"(8) Action to be taken in the event of a missed dose.

"(b) The offer to discuss may be made in the manner determined by the professional judgment of the pharmacist, which may include any 1 or a combination of the following:

"(1) A face-to-face communication with the pharmacist or the pharmacist's designee;

"(2) A sign posted in such a manner that it can be seen by patients;

"(3) A notation affixed to or written on the bag in which the prescription is to be dispensed;

"(4) A notation contained on the prescription container;

"(5) Communication by telephone; or

"(6) Any other manner prescribed by rule.

"(c) Nothing in this section shall be construed as requiring a pharmacist to provide consultation if the medical assistance recipient or caregiver refuses the consultation. These refusals shall be noted in the profile maintained in accord with subsection (d) of this section for a medical assistance recipient.

"(d) A pharmacist shall make a reasonable effort to obtain, record, and maintain, at the individual pharmacy, the following minimal information regarding a medical assistance recipient receiving a prescription:

"(1) Name, address, telephone number, date of birth or age, and gender;

"(2) Individual patient history when significant, including known allergies and drug reactions, and a comprehensive list of medications and relevant devices; and

"(3) Pharmacist comments relevant to the individual's drug therapy, which may be recorded either manually or electronically in the patient's profile, including any failure to accept the pharmacist's offer to counsel.

"(e) This section shall apply only to medical assistance recipients presenting prescriptions for covered outpatient drugs.

"(f) The requirements of this section do not apply to refill prescriptions.

"(g) The Mayor may adopt regulations implementing the provisions of this section to assure compliance with federal medical assistance requirements."

Section 3 of D.C. Law 9-258 provided that if any provision of this act or the application thereof to any health care provider is deemed improper and would therefore cause the denial of any portion of the federal share of payment for Medical Assistance expenditures by the United States Department of Health and Human Services, then that provision shall be declared invalid, but the invalidity shall not affect other provisions or any other application of this act which can be given effect without the invalid provision or application.

Section 4(b) of D.C. Law 9-258 provided that the act shall expire on the 225th day of its having taken effect.

Section 3 of D.C. Law 10-84 provided that if any provision of this act or the application thereof to any health care provider is deemed improper and would therefore cause the denial of any portion of the federal share of payment for Medical Assistance expenditures by the United States Department of Health and Human Services, then that provision shall be declared invalid, but the invalidity shall not affect other provisions or any other application of this act which can be given effect without the invalid provision or application.

Section 4(b) of D.C. Law 10-84 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the Patient Counseling Amendment Act of 1993, whichever occurs first.

**Emergency act amendments.** — For temporary addition of section, see § 2 of the Patient Counseling Emergency Amendment Act of 1992 (D.C. Act 9-371, December 31, 1992, 40 DCR 621). Section 3 of the Act provided that if any provisions of the act or the application thereof to any health care provider is deemed improper and would thereafter cause the denial of any portion of the federal share of payment for Medical Assistance expenditures by the United States Department of Health and Human Services, that provision shall be declared invalid, but the invalidity shall not affect other provisions or any other application of the act which can be given effect without the invalid provision or application.

For temporary addition of section, see § 2 of the Patient Counseling Emergency Amendment Act of 1993 (D.C. Act 10-143, November 4, 1993, 40 DCR 8074).

Section 3 of D.C. Act 10-143 provides for the application of the act.

For temporary addition of section, see § 2 of

the Patient Counseling Congressional Recess Emergency Amendment Act of 1994 (D.C. Act 10-178, January 25, 1994, 41 DCR 517).

Section 3 of D.C. Act 10-178 provides that if any provision of this act or the application thereof to any health care provider is deemed improper and would therefore cause the denial of any portion of the federal share of payment for Medical Assistance expenditures by the United States Department of Health and Human Services, then that provision shall be declared invalid, but the invalidity shall not affect other provisions or any other application of this act which can be given effect without the invalid provision or application.

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 9-258.** — Law 9-258, the "Patient Counseling Temporary Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-736. The Bill was adopted on first and second readings on December 15, 1992, and January 5, 1993, respectively. Signed by the Mayor on January 14, 1993, it was assigned Act No. 9-406 and transmitted to both Houses of Congress for its review. D.C. Law 9-258 became effective on March 25, 1993.

**Legislative history of Law 10-84.** — Law 10-84, the "Patient Counseling Temporary Amendment Act of 1993," was introduced in Council and assigned Bill No. 10-456. The Bill was adopted on first and second readings on November 2, 1993, and December 7, 1993, respectively. Signed by the Mayor on December 16, 1993, it was assigned Act No. 10-158 and transmitted to both Houses of Congress for its review. D.C. Law 10-84 became effective on March 19, 1994.

## § 2-3310.7. Criminal penalties.

(a) Any person who violates any provision of this chapter shall, upon conviction, be subject to imprisonment not to exceed 1 year, or a fine not to exceed \$10,000, or both.

(b) Any person who has been previously convicted under this chapter shall, upon conviction, be subject to imprisonment not to exceed 5 years, or a fine not to exceed \$20,000, or both. (Mar. 25, 1986, D.C. Law 6-99, § 1007, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.



**§ 2-3310.8. Prosecutions.**

In any prosecution brought under this chapter, any person claiming an exemption from licensing under this chapter shall have the burden of proving entitlement to the exemption. (Mar. 25, 1986, D.C. Law 6-99, § 1008, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**§ 2-3310.9. Alternative sanctions.**

Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to subchapters I through III of Chapter 27 of Title 6. (Mar. 25, 1986, D.C. Law 6-99, § 1009, 33 DCR 729.)

**Legislative history of Law 6-99.** — See Bd. of Medicine, App. D.C., 562 A.2d 109 (1989).  
note to § 2-3301.1.

Cited in Davidson v. District of Columbia

**§ 2-3310.10. Injunctions.**

(a) The Corporation Counsel may bring an action in the Superior Court of the District of Columbia in the name of the District of Columbia to enjoin the unlawful practice of any health occupation or any other action which is grounds for the imposition of a criminal penalty or disciplinary action under this chapter.

(b) The Corporation Counsel may bring an action in the Superior Court of the District of Columbia in the name of the District of Columbia to enjoin the unlawful sale of drugs or the unlawful trade practice or unlawful operation of a pharmacy, nursing home, community residential facility, or any other establishment purporting to provide health services.

(c) Remedies under this section are in addition to criminal prosecution or any disciplinary action by a board.

(d) In any proceeding under this section, it shall not be necessary to prove that any person is individually injured by the action or actions alleged. (Mar. 25, 1986, D.C. Law 6-99, § 1010, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

*Subchapter XII. Transitional Provisions.***§ 2-3311.1. Transfer of personnel, records, property, and funds.**

(a) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Dental Examiners are transferred to the Board of Dentistry established by this chapter.

(b) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Commission on Licensure to Practice the Healing Arts are transferred to the Board of Medicine established by this chapter.

(c) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Nurses' Examining Board are transferred to the Board of Nursing established by this chapter.

(d) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Examiners for Nursing Home Administrators are transferred to the Board of Nursing Home Administration established by this chapter.

(e) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Occupational Therapy Practice are transferred to the Board of Occupational Therapy established by this chapter.

(f) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Optometry are transferred to the Board of Optometry established by this chapter.

(g) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Physical Therapists Examining Board are transferred to the Board of Physical Therapy established by this chapter.

(h) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Pharmacy are transferred to the Board of Pharmacy established by this chapter.

(i) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Podiatry Examiners are transferred to the Board of Podiatry established by this chapter.

(j) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Psychologist Examiners are transferred to the Board of Psychology established by this chapter. (Mar. 25, 1986, D.C. Law 6-99, § 1201, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

## § 2-3311.2. Members of boards abolished.

Members of boards or commissions abolished by section 1104 shall serve as members of the successor boards to which their functions are transferred until the expiration of their terms or the appointment of their successors, whichever occurs first. (Mar. 25, 1986, D.C. Law 6-99, § 1202, 33 DCR 729; Apr. 30, 1988, D.C. Law 7-104, § 26(a), 35 DCR 147.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 7-104.** — Law 7-104, the "Technical Amendments Act of 1987," was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987 and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it

was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

**References in text.** — "Section 1104", referred to near the beginning of the section, is § 1104 of D.C. Law 6-99, which repealed Chapters 12, 17, 18, and 22 of this title and §§ 2-1301 to 2-1343.

**Cited in** Davidson v. District of Columbia Bd. of Medicine, App. D.C., 562 A.2d 109 (1989).

## § 2-3311.3. Pending actions and proceedings; existing rules and orders.

(a) No suit, action, or other judicial proceeding lawfully commenced by or against any board or commission specified in section 1104, or against any member, officer or employee of the board or commission in the official capacity of the officer or employee, shall abate by reason of the taking effect of this chapter, but the court or agency, unless it determines that survival of the suit, action, or other proceeding is not necessary for purposes of settlement of the question involved, shall allow the suit, action, or other proceeding to be maintained, with substitutions as to parties as are appropriate.

(b) No disciplinary action against a health professional or other administrative action or proceeding lawfully commenced shall abate solely by reason of the taking effect of any provision of this chapter, but the action or proceeding shall be continued with substitutions as to parties and officers or agencies as are appropriate.

(c) Except as otherwise provided in this chapter, all rules and orders promulgated by the boards abolished by this act shall continue in effect and shall apply to their successor boards until the rules or orders are repealed or superseded. (Mar. 25, 1986, D.C. Law 6-99, § 1203, 33 DCR 729; Apr. 30, 1988, D.C. Law 7-104, § 26(b), 35 DCR 147.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

**Legislative history of Law 7-104.** — See note to § 2-3311.2.

**References in text.** — "Section 1104", referred to near the beginning of subsection (a), is § 1104 of D.C. Law 6-99, which repealed Chapters 12, 17, 18, and 22 of this title and

§§ 2-1301 to 2-1343. "This act", referred to near the middle of subsection (c), is D.C. Law 6-99.

**Applicability of Revision Act of 1985.** — Unless a disciplinary proceeding had been "lawfully commenced" against a physician under the Healing Arts Practice statute before March 25, 1986, the Revision Act of 1985 gov-



erns the proceeding. *Salama v. District of Columbia Bd. of Medicine*, App. D.C., 578 A.2d 693 (1990).

**Erroneous citation in a revocation notice** to Healing Arts Practice statute repealed by the Revision Act of 1985 did not divest the Board of jurisdiction to discipline an applicant where the same conduct was cause for disci-

pline under both statutes and the same disciplinary sanctions existed for such conduct. *Salama v. District of Columbia Bd. of Medicine*, App. D.C., 578 A.2d 693 (1990).

**Cited in** *Davidson v. District of Columbia Bd. of Medicine*, App. D.C., 562 A.2d 109 (1989).

### *Subchapter XIII. Appropriations.*

#### **§ 2-3312.1. Appropriations.**

Funds may be appropriated to carry out the purposes of this chapter. (Mar. 25, 1986, D.C. Law 6-99, § 1301, 33 DCR 729.)

**Legislative history of Law 6-99.** — See note to § 2-3301.1.

CHAPTER 34. INTERIOR DESIGN LICENSURE.

Sec.	Sec.
2-3401. Definitions.	2-3407. License renewal.
2-3402. Board of Interior Designers; qualifications of members; terms of office.	2-3408. Exemptions.
2-3403. Duties and powers of board.	2-3409. Signing of drawings and specifications.
2-3404. Duties of Mayor.	2-3410. Revocation, suspension, or denial of license.
2-3405. Examination.	2-3411. Penalty for illegal practice or use of title.
2-3406. Licensure of interior designers; waiver of examination.	

§ 2-3401. Definitions.

For the purposes of this chapter, the term:

(1) "Board" means the Board of Interior Designers established by this chapter.

(2) "Building" means any structure consisting of foundation, floors, walls, columns, girders, and roof, or a combination of any number of these parts, with or without other parts or appurtenances.

(3) "Council" means the Council of the District of Columbia.

(4) "District" means the District of Columbia.

(5) "Household member" means a relative by blood or marriage who shares another individual's actual residence.

(6) "Interior design" means providing or offering to provide consultations, preliminary studies, drawings, specifications, or any related service for the design analysis, programming, space planning, or aesthetic planning of the interior of buildings, using specialized knowledge of interior construction, building systems and components, building codes, fire and safety codes, equipment, materials, and furnishings, in a manner that will protect and enhance the health, safety, and welfare of the public whether 1 or all of these services are performed either in person or as the directing head of an organization.

(7) "Interior designer" means any person licensed to practice interior design under this chapter.

(8) "Mayor" means the Mayor of the District of Columbia. (Feb. 24, 1987, D.C. Law 6-172, § 2, 33 DCR 7211.)

**Legislative history of Law 6-172.** — Law 6-172, the "District of Columbia Interior Designer Licensure Act of 1986," was introduced in Council and assigned Bill No. 6-251, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted

on first and second readings on September 23, 1986, and October 7, 1986, respectively. Signed by the Mayor on October 30, 1986, it was assigned Act No. 6-221 and transmitted to both Houses of Congress for its review.

§ 2-3402. Board of Interior Designers; qualifications of members; terms of office.

(a) There is established a Board of Interior Designers, which shall consist of 5 members appointed by the Mayor who shall designate 1 member as the chairperson. Three members shall be interior designers; 1 shall be an interior design educator; and 1 shall be a consumer.

(b) The members of the board shall be residents of the District at the time of their appointments and while they are members of the board.

(c) The interior designer members of the board, in addition to the requirements of subsection (b) of this section, shall be licensed in the District and shall have been engaged in the practice of interior design for at least 5 years immediately prior to their appointments. The initial appointees shall meet the qualifications for licensure and shall promptly apply for licensure upon issuance of rules implementing this chapter.

(d) The interior design educator member of the board, in addition to the requirements of subsection (b) of this section, shall be an educator of interior design at a school, college, or university with an interior design program accredited by the Foundation of Interior Design Education and Research. The interior design educator shall have at least 5 years teaching experience or a combination of 3 years experience as an interior designer or architect and 2 years of teaching experience.

(e) The consumer member of the board, in addition to the requirements of subsection (b) of this section, shall:

(1) Be at least 18 years old;

(2) Not be an interior designer or in training to become an interior designer;

(3) Not have a household member who is an interior designer or in training to become an interior designer; and

(4) Not own, operate or be employed in, or have a household member who owns, operates or is employed in, a business that has as its primary purpose the sale of goods or services to interior designers or interior design facilities.

(f) Of the initial appointees to the board, 2 shall be appointed for terms of 3 years; 2 shall be appointed for terms of 2 years; and 1 shall be appointed for a term of 1 year. All subsequent appointments shall be for terms of 3 years. In case a successor is not appointed at the expiration of the term of any member, the member shall hold office until the successor has been appointed and sworn into office. In the event of a vacancy, the Mayor shall appoint a member to serve the unexpired term of the member who vacated the office. No member shall be appointed to more than 2 consecutive 3-year terms.

(g)(1) The Mayor, after providing written notice 15 days in advance and an opportunity for a hearing, may remove any member of the board for failure to maintain the qualifications required by this section, for neglect of duties required by this chapter, or for incompetence.

(2) The failure of a board member to attend at least  $\frac{1}{2}$  of the regular, scheduled meetings of the board within a 12-month period shall constitute neglect of duty within the meaning of this subsection. (Feb. 24, 1987, D.C. Law 6-172, § 3, 33 DCR 7211.)

**Legislative history of Law 6-172.** — See note to § 2-3401.

**6-172.** — See Mayor's Order 87-277, December 11, 1987.

**Delegation of authority pursuant to Law**



**§ 2-3403. Duties and powers of board.**

(a) The board shall license interior designers and regulate the practice of interior design and shall administer and enforce the provisions of this chapter and rules issued pursuant to this chapter.

(b) The board shall determine the times and places of its meetings and shall publish notice of meetings at least 1 week in advance in the District of Columbia Register. A majority of the members shall constitute a quorum.

(c) The board shall keep records of its proceedings relating to the issuance, renewal, denial, suspension, and revocation of licenses.

(d) The board shall maintain a register of persons licensed as interior designers, and shall publish annually a list of the names and addresses of those persons, as well as a list of all persons whose licenses have been suspended or revoked within 3 years prior to the publication.

(e) The board shall submit annually to the Mayor a report of its activities for the preceding fiscal year.

(f) The members of the board shall be compensated in accordance with § 1-612.8, and in addition shall be reimbursed for reasonable travel and other expenses incurred in the performance of their duties. (Feb. 24, 1987, D.C. Law 6-172, § 4, 33 DCR 7211.)

**Legislative history of Law 6-172.** — See note to § 2-3401.

**§ 2-3404. Duties of Mayor.**

The board shall be under the administrative control of the Mayor, who shall:

(1) Provide administrative support to the board, including staff and facilities, at a level the Mayor determines necessary to enable the board to carry out its responsibilities;

(2) Establish and collect fees for the examination, licensure, and licensure renewal services required by this chapter, which shall be at the level necessary to defray all costs of administering this chapter; and

(3) Issue all rules necessary to implement the provisions of this chapter. (Feb. 24, 1987, D.C. Law 6-172, § 5, 33 DCR 7211.)

**Legislative history of Law 6-172.** — See note to § 2-3401. **6-172.** — See Mayor's Order 87-277, December 11, 1987.

**Delegation of authority pursuant to Law**

**§ 2-3405. Examination.**

(a) The Mayor shall issue rules for the examination of applicants for licensure to practice interior design.

(b) Pursuant to subsection (a) of this section, the Mayor may require the examination prepared by the National Council for Interior Design Qualification, or may require the board to develop an examination to test competency

in the technical and professional subjects relevant to the practice of interior design.

(c) The board shall administer the examination required by this section at least 2 times yearly at times and places determined by the board.

(d) Except as provided in § 2-3406 (d), an applicant shall satisfactorily complete the examination required by this section as a condition for licensure to practice interior design. (Feb. 24, 1987, D.C. Law 6-172, § 6, 33 DCR 7211.)

**Legislative history of Law 6-172.** — See 6-172. — See Mayor's Order 87-277, December 11, 1987.

**Delegation of authority pursuant to Law**

## § 2-3406. Licensure of interior designers; waiver of examination.

(a) It shall be unlawful for any person who is not licensed as an interior designer to engage in the practice of interior design, to advertise as an interior designer, to use the title of "interior designer" or any other words, letters, figures, or other device for the purpose of implying, directly or indirectly, that the person is an interior designer.

(b) No company, partnership, association, corporation, or other similar organization shall use the title of "interior designer" unless interior design services rendered by or on behalf of the organization are in the responsible charge of a licensed interior designer.

(c) An applicant for licensure as an interior designer shall establish to the satisfaction of the board that the applicant:

- (1) Is at least 18 years of age;
- (2) Has not been convicted of an offense that bears directly on the fitness of the applicant to be licensed;
- (3) Has passed the examination required by this chapter; and
- (4) Meets any other requirements established by the Mayor by rule.

(d) The board may waive the examination requirement of this chapter for any person otherwise qualified for licensure who:

(1) Submits an affidavit establishing to the satisfaction of the board that he or she was regularly engaged in the practice of interior design, either on his or her own account or in the course of regular employment, for 3 years immediately preceding February 24, 1987, and applies for a waiver within 1 year of February 24, 1987; or

(2) Is licensed as an interior designer in a state or territory that admits interior designers licensed in the District in a like manner.

(e) The board may require licensees, as a condition of license renewal, to earn 1 continuing education unit per year at a continuing education course that is acceptable to the board. Satisfactory evidence of having met this requirement shall be presented to the board in whatever form the board may require. (Feb. 24, 1987, D.C. Law 6-172, § 7, 33 DCR 7211.)

**Section references.** — This section is referred to in § 2-3405.

**Legislative history of Law 6-172.** — See note to § 2-3401.

### **§ 2-3407. License renewal.**

(a) A licensee shall annually renew the licensee's license and pay the renewal fee established by the Mayor. It shall be unlawful for any interior designer who fails to renew his or her license to continue to practice interior design or to use the title of interior designer.

(b) Every license shall expire annually on a day designated by the board. (Feb. 24, 1987, D.C. Law 6-172, § 8, 33 DCR 7211.)

**Legislative history of Law 6-172.** — See note to § 2-3401.

### **§ 2-3408. Exemptions.**

(a) The provisions of this chapter shall not apply to architects engaged in the practice of architecture in accordance with Chapter 2 of this title.

(b) The provisions of this chapter shall not apply to the following persons, so long as they do not use the title of "interior designer" or otherwise hold themselves out to be "interior designers":

(1) Consultants, officers, and employees of the District or of the United States, or of private businesses engaged in services other than interior design, who practice interior design solely for the government or the private business by whom they are employed;

(2) Landscape architects, landscape engineers, and city and regional planners engaged in the preparation of drawings for, and the supervision of, planting, grading, walks, paving, and such minor structural features as fences, steps, walls, pools, and garden structures, normally included as a part of their work, where these features could not constitute a possible menace to life, health, or public welfare;

(3) Structural engineers, heating engineers, plumbing engineers, air conditioning and ventilation engineers, electrical engineers, elevator engineers, and civil engineers, who perform interior design services that are incidental to their practice;

(4) Employees of licensed interior designers acting under the control, instruction, or supervision of their employers; and

(5) Interior decorators engaged only in the application of aesthetic principles in the selection of furnishings, materials, and appliances. (Feb. 24, 1987, D.C. Law 6-172, § 9, 33 DCR 7211.)

**Legislative history of Law 6-172.** — See note to § 2-3401.



## § 2-3409. Signing of drawings and specifications.

All drawings and specifications prepared in the practice of interior design as defined in this chapter shall be signed by the interior designer responsible for their preparation. (Feb. 24, 1987, D.C. Law 6-172, § 10, 33 DCR 7211.)

**Legislative history of Law 6-172.** — See note to § 2-3401.

## § 2-3410. Revocation, suspension, or denial of license.

(a) The board may revoke, suspend, or deny a license in accordance with the procedures established by this chapter and rules issued pursuant to this chapter if the board determines from the evidence that:

- (1) The license was obtained through fraud or misrepresentation;
- (2) The licensee has been convicted by a court of any offense involving fraud or deceit in the licensee's professional practice;
- (3) The licensee has manifested gross incompetence or recklessness in the practice of interior design; or
- (4) The licensee has violated any provision of this chapter or rules issued pursuant to this chapter.

(b) The board may begin proceedings to revoke, suspend, or deny a license upon receipt of a written complaint or on its own initiative by majority vote. The board shall provide the person who is the subject of the proceedings with notice of the allegations and an opportunity for a hearing in accordance with subchapter 1 of Chapter 15 of Title 1.

(c) The board may administer oaths and compel the attendance and testimony of witnesses and the production of books, papers, and other evidence in connection with any proceeding under this section. In the case of contumacy by or refusal to obey a subpoena issued by the board to any person, the board may refer the matter to the Superior Court of the District of Columbia, which may order the person to appear and give testimony or produce books, papers, and other evidence bearing on the hearing. Refusal to obey the order shall constitute contempt of court. (Feb. 24, 1987, D.C. Law 6-172, § 11, 33 DCR 7211.)

**Legislative history of Law 6-172.** — See note to § 2-3401.

## § 2-3411. Penalty for illegal practice or use of title.

(a) Any person who engages in the practice of interior design or who uses the title "interior designer" or any other words, letters, figures, or other device for the purpose of implying that the person is an interior designer without having complied with the provisions of this chapter shall be subject to a civil fine of not more than \$200.

(b) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to Chapter 27 of Title 6.

Adjudication of any infraction of this chapter shall be pursuant to Chapter 27 of Title 6. (Feb. 24, 1987, D.C. Law 6-172, § 12, 33 DCR 7211; Mar. 8, 1991, D.C. Law 8-237, § 16, 38 DCR 314.)

**Legislative history of Law 6-172.** — See note to § 2-3401.

**Legislative history of Law 8-237.** — Law 8-237, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of 1990," was introduced in Council and assigned Bill No. 8-203, which was referred to the Com-

mittee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-320 and transmitted to both Houses of Congress for its review.

## CHAPTER 35. BICENTENNIAL COMMISSION.

Sec.	Sec.
2-3501. Findings of Council.	2-3504. Funding.
2-3502. Definitions.	2-3505. Establishment of District of Columbia Bicentennial Fund.
2-3503. Establishment of District of Columbia Bicentennial Commission.	2-3506. Duties.

## § 2-3501. Findings of Council.

The Council of the District of Columbia finds that:

(1) The period commencing in 1987 and ending in 2004 embraces the bicentennial anniversaries of significant events of great importance to the history of the United States of America and to the development of the City of Washington, District of Columbia;

(2) The government of the District of Columbia is responsible for the preservation of the history of the District of Columbia as the seat of the national government and as a city having Congressionally-mandated authority for self-government;

(3) The United States is celebrating the bicentennial of the Constitution of the United States through state and local celebrations beginning in 1987;

(4) The District of Columbia is approaching the bicentennial of its founding as the seat of the federal government and anniversaries of other events of great national and local significance; and

(5) It is appropriate and fitting to plan the celebration and commemoration of these historic events through observances and activities planned by a commission composed of representatives of public and private authorities and organizations. (July 25, 1987, D.C. Law 7-12, § 2, 34 DCR 3783.)

**Legislative history of Law 7-12.** — Law 7-12, the "District of Columbia Bicentennial Commission Act of 1987," was introduced in Council and assigned Bill No. 7-135, which was referred to the Committee on Government Operations. The Bill was adopted on first and sec-

ond readings on April 14, 1987 and May 5, 1987, respectively. Signed by the Mayor on June 1, 1987, it was assigned Act No. 7-25 and transmitted to both Houses of Congress for its review.

## § 2-3502. Definitions.

For the purposes of this chapter, the term:

(1) "Commission" means the District of Columbia Bicentennial Commission established by § 2-3503.

(2) "Council" means the Council of the District of Columbia.

(3) "District" means the District of Columbia.

(4) "Government" means the government of the District of Columbia.

(5) "Mayor" means the Mayor of the District of Columbia.

(6) "Secretary" means the Secretary of the District of Columbia. (July 25, 1987, D.C. Law 7-12, § 3, 34 DCR 3783.)



Legislative history of Law 7-12. — See note to § 2-3501.

**§ 2-3503. Establishment of District of Columbia Bicentennial Commission.**

(a) There is established a commission to be known as the District of Columbia Bicentennial Commission constituted for the purpose of developing and coordinating plans for the commemoration of the bicentennial of the United States Constitution, the transfer of the seat of the federal government to the District of Columbia, and the anniversaries of other related events of national and local significance occurring during the bicentennial period commencing in 1987 and ending in 2004.

(b) The Commission shall be comprised of 39 members, all of whom shall be residents of the District, as follows:

(1) One citizen from each election ward of the District appointed by the Mayor, none of whom shall be officers or employees of the government or of any of its independent agencies, with the exception of Advisory Neighborhood Commissions;

(2) Fourteen members, 1 of whom shall be appointed by the Chairman of the Council, and 1 each by the other Councilmembers and 1 of whom shall be a Councilmember appointed by the Chairman of the Council to represent the interests of the Council;

(3) One member appointed by the District's delegate to the House of Representatives of the United States;

(4) Nine members appointed by the Mayor to represent appropriate public and private organizations and the District's business community;

(5) Two members appointed by the Chief Judge of the District of Columbia Court of Appeals;

(6) Two members appointed by the Chief Judge of the Superior Court of the District of Columbia;

(7) One member appointed by the District of Columbia Bar; and

(8) Two members, 1 of whom shall be the Secretary of the District of Columbia, appointed by the Mayor to represent appropriate agencies of the District of Columbia Government.

(c) All members of the Commission shall be chosen within 60 days of July 25, 1987.

(d) A chairperson of the Commission shall be chosen by the Mayor, and the members of the Commission shall elect from among their membership a vice-chairperson and other officers as deemed necessary.

(e) Each member of the Commission shall serve without compensation, but shall be reimbursed for all reasonable expenses pursuant to § 1-612.8 (b).

(f) Members of the Commission appointed pursuant to subsection (b) of this section shall serve for a period of 4 years from the date of the installation of a majority of the members first appointed, except that members appointed pursuant to subsection (b)(8) of this section shall serve at the pleasure of the Mayor.

(g) The Commission shall be dissolved 4 years from the date of the installation of a majority of its first members, but the life of the Commission may be extended at the pleasure of the Mayor.

(h) Vacancies on the Commission shall be filled in the same manner in which the original appointments were made.

(i) A majority of the members of the Commission shall constitute a quorum.

(j) The Commission may appoint honorary members, and may establish an advisory committee to assist the Commission in its work. The members of any advisory committee shall serve without compensation.

(k) The Commission may establish special committees and invite citizen representatives from public agencies and private organizations to assist the Commission in carrying out its work as the Commission deems appropriate.

(l) The Commission may adopt by-laws to govern its internal operation and public meetings.

(m) The Commission may adopt and use a seal upon approval by the Mayor. The Commission shall be the repository for the official emblem issued by the Commission on the Bicentennial of the United States Constitution, established pursuant to the Commission on the Bicentennial of the United States Constitution Establishment Act (Pub. L. 98-101). (July 25, 1987, D.C. Law 7-12, § 4, 34 DCR 3783.)

**Section references.** — This section is referred to in § 2-3502.

**Legislative history of Law 7-12.** — See note to § 2-3501.

## § 2-3504. Funding.

(a) There may be appropriated out of revenues available to the District sums necessary to carry out the purposes of this chapter.

(b) The Commission is authorized to apply for and receive grants to fund its activities.

(c) The Commission may solicit and accept private gifts and donations to carry out the purposes of this chapter.

(d) The administrative support for the Commission, including personnel and procurement services, shall be provided by the Office of the Secretary and shall be subject to all the statutory and regulatory requirements applicable to the Office of the Secretary. (July 25, 1987, D.C. Law 7-12, § 5, 34 DCR 3783.)

**Legislative history of Law 7-12.** — See note to § 2-3501.

## § 2-3505. Establishment of District of Columbia Bicentennial Fund.

(a) A District of Columbia Bicentennial Fund ("Fund") shall be established by the Mayor to receive all money from whatever source derived to carry out the purposes of this chapter. The Fund shall be accounted for under procedures established pursuant to subchapter V of Chapter 3 of Title 47, or any other applicable law. All money generated by the Commission shall be deposited in the Fund.

(b) All money in the Fund shall be for the sole use of the Commission.

(c) The Commission shall submit to the Mayor and to the Council a monthly statement of receipts and disbursements from the Fund.

(d) Upon the expiration of this chapter and after all obligations of the Commission have been satisfied, any money remaining in the Fund shall be paid over to the General Fund of the District as general purposes revenues. (July 25, 1987, D.C. Law 7-12, § 6, 34 DCR 3783.)

**Legislative history of Law 7-12.** — See note to § 2-3501.

## **§ 2-3506. Duties.**

(a) The Commission shall:

(1) Plan and develop appropriate activities and publications to celebrate the bicentennial events identified by the Commission for commemoration;

(2) Select and develop proposals for projects to be undertaken by the government that are designed to harmonize and balance the important goals of scholarship and education;

(3) Involve and actively encourage the participation of local and national private organizations, federal, District, and adjacent state governments in planning for the bicentennial events and commemorations;

(4) Serve as the District's clearinghouse for the research, collection, and dissemination of the official information used as the basis for developing the plans for bicentennial commemorations; and

(5) Complete other projects and approaches identified by the Commission as being significant to the successful development of the bicentennial plan for the District to celebrate its bicentennial and that of the Constitution of the United States.

(b) The Commission shall consider appropriate means by which the District should celebrate the bicentennial of the Constitution of the United States and shall issue a report detailing plans for this celebration within 3 months of the date of the first meeting held by the Commission following its establishment.

(c) The Commission shall submit to the Mayor and to the Council an interim report of the Commission on the plan for commemorating bicentennial events of significance to the Constitution of the United States and to the history of the District within 9 months of the date of the first meeting held by the Commission following its establishment. The interim report of the Commission shall include:

(1) An identification of the bicentennial and related events to be commemorated and celebrated, including a master schedule of target dates;

(2) A description of the nature of the celebrations to be developed for each event identified for commemoration;

(3) A statement of historical and other scholarly data to support the selection of each event proposed for commemoration;

(4) A description of the scope and extent of interaction among the federal, District, and state governments and private organizations participating in the formulation and presentation of the bicentennial plan;



(5) Cost projections for each event proposed for commemoration and a plan for allocation of financial and administrative responsibility among the public and private entities recommended for participation by the Commission;

(6) An outline of publications needed to promote, document, and encourage the interest and participation of the public and private sectors in the bicentennial events proposed for commemoration; and

(7) A summary of recommendations for administrative actions and any additional legislation that may, in the judgment of the Commission, be necessary or desirable in implementing the bicentennial plan set forth in the interim report.

(d) The Mayor shall submit to the Commission the Mayor's views on the interim report of bicentennial plans within 3 months of the Mayor's receipt of the interim report together with any revisions, additions, or other recommendations.

(e) The Commission shall submit to the Mayor its final report, setting forth the master plan for the celebration of the bicentennial events of the Constitution and of the District not more than 4 months from the date the Commission receives the Mayor's report of findings on the Commission's interim report.

(f) The Mayor shall submit to the Council a report on the plan for celebrating the bicentennial of the adoption and ratification of the Constitution of the United States and of the transfer of the seat of the federal government to the District, and related commemorations, within 60 days from the date the Mayor receives the final report of the Commission.

(g) The Mayor shall distribute copies of the report of the Mayor to all agencies of the District, to the District of Columbia public library, and to all federal and state governmental agencies and private organizations that participated in the work of the Commission. The Mayor shall also make copies of the report available to all Advisory Neighborhood Commissions and interested citizens. (July 25, 1987, D.C. Law 7-12, § 7, 34 DCR 3783.)

**Legislative history of Law 7-12.** — See note to § 2-3501.

CHAPTER 36. DOMESTIC PARTNERSHIP BENEFITS. [Expired]

Sec.

2-3601. Commission; established.

2-3602. Membership of Commission.

2-3603. Rules of procedure.

Sec.

2-3604. Duties.

2-3605. Mayoral review and transmittal to Council.

§ 2-3601. Commission; established.

There is established a Commission on Domestic Partnership Benefits for District of Columbia Government Employees ("Commission"). (Sept. 29, 1988, D.C. Law 7-156, § 2, 35 DCR 5720.)

**Legislative history of Law 7-156.** — Law 7-156, the "Commission on Domestic Partnership Benefits for District of Columbia Government Employees Establishment Act of 1988," was introduced in Council and assigned Bill No. 7-465, which was referred to the Commit-

tee on Government Operations. The Bill was adopted on first and second readings on June 14, 1988 and June 28, 1988, respectively. Signed by the Mayor on July 15, 1988, it was assigned Act No. 7-211 and transmitted to both Houses of Congress for its review.

§ 2-3602. Membership of Commission.

(a) The Commission shall consist of 25 members, each of whom shall be a resident of the District.

(1) Fifteen members shall be appointed by the Mayor, 1 of whom shall be appointed as chairperson, as follows:

- (A) Three representatives of unions or labor organizations;
- (B) Three representatives of senior citizens' organizations;
- (C) Three representatives of women's rights organizations;
- (D) Three representatives of religious organizations; and
- (E) Three representatives of lesbian or gay rights organizations.

(2) Five members shall be appointed by the Committee on Government Operations, with each member of the Committee on Government Operations appointing 1 member.

(3) Five nonvoting members shall be representatives of the District of Columbia government, including:

- (A) The Corporation Counsel of the District of Columbia, or a designee;
- (B) The Director of the Office of Personnel, or a designee;
- (C) The Director of the Office of Labor Relations and Collective Bargaining, or a designee;
- (D) The Director of the Office of Human Rights, or a designee; and
- (E) The Executive Director of the Commission for Women, or a designee.

(b) To the extent practicable, appointments under this section shall be made with a view toward maintaining a balance reflecting the gender, geographical, and racial composition of the District government workforce.

(c) Members of the Commission shall be appointed within 45 calendar days of September 29, 1988. The chairperson shall convene an organizational meeting no later than 15 calendar days after all the appointments have been made.

(d) A vacancy on the Commission shall be filled in the same manner that the original appointment was made. (Sept. 29, 1988, D.C. Law 7-156, § 3, 35 DCR 5720.)

**Legislative history of Law 7-156.** — See note to § 2-3601.

### § 2-3603. Rules of procedure.

(a) A majority of the members of the Commission shall constitute a quorum.

(b) A written transcript or a transcription shall be kept for all meetings at which a vote is taken.

(c) The Commission shall meet at the call of the chairperson or a majority of its members, but at least once every month.

(d) The Commission may, pursuant to subchapter I of Chapter 15 of Title 1, develop rules of organization and procedure.

(e) Members of the Commission shall not be considered employees of the District by reason of appointment to the Commission and shall not receive pay by reason of service as members.

(f) The Commission shall cease to exist 60 days after its final report has been submitted to the Mayor. (Sept. 29, 1988, D.C. Law 7-156, § 4, 35 DCR 5720.)

**Legislative history of Law 7-156.** — See note to § 2-3601.

### § 2-3604. Duties.

(a) Within a 12-month period following the appointment of all its members, the Commission shall conduct a study of domestic partnership benefits for District of Columbia government employees and submit a final report of its findings to the Mayor.

(b) The report shall:

(1) Define the terms "domestic partner", "domestic partnership", and "domestic partnership benefits", and "employee", as well as provide any other relevant definitions;

(2) Identify and study domestic partnership legislation that has been proposed or enacted in other jurisdictions;

(3) Identify and study domestic partnership benefits that have been proposed or agreed to in union contracts or compensation agreements in other jurisdictions;

(4) Inform the Mayor on the advisability of enacting domestic partnership benefits legislation for the District;

(5) Advise the Mayor on the impact of domestic partnership benefits legislation on existing laws, including Chapter 25 of Title 1;

(6) Estimate the fiscal impact of domestic partnership benefits legislation on the District and provide a breakdown of that estimate; and



(7) Advise the Mayor on any other aspect of domestic partnership benefits the Commission deems appropriate.

(c) Each agency of the District government shall cooperate with the Commission in the conduct of the study and report required by subsection (a) of this section. Each agency shall provide any data, reports, or other information, in a timely manner, that the Commission may request in the course of the study. All information shall be kept confidential until the final report is issued.

(d) The Mayor shall provide administrative support, space, and other resources needed by the Commission.

(e) Sums necessary to carry out the purposes of this chapter shall be provided out of existing revenues available to the District. (Sept. 29, 1988, D.C. Law 7-156, § 5, 35 DCR 5720.)

**Section references.** — This section is referred to in § 2-3605.

**Legislative history of Law 7-156.** — See note to § 2-3601.

### **§ 2-3605. Mayoral review and transmittal to Council.**

Upon issuance of the final report required by § 2-3604 (a), the Mayor shall review the report and, within a period not to exceed 60 days from the date of its issuance, shall transmit to the Council a copy of the final report along with the Mayor's comments, conclusions, recommendations, modifications, and proposals. (Sept. 29, 1988, D.C. Law 7-156, § 6, 35 DCR 5720.)

**Legislative history of Law 7-156.** — See note to § 2-3601.

## CHAPTER 37. TASK FORCE ON HUNGER.

Sec.

2-3701. Task Force on Hunger established.

2-3702. Powers and duties of the Task Force.

2-3703. Compensation and expenses of the Task Force members.

Sec.

2-3704. Staffing and budget.

2-3705. Rules.

2-3706. Applicability.

## § 2-3701. Task Force on Hunger established.

(a) There is established a District of Columbia Task Force on Hunger ("Task Force") that shall be comprised of 21 members. Each member of the Task Force shall be a resident of the District of Columbia ("District"). Members shall be appointed in the following manner:

(1) Nine members shall be appointed by each Ward representative and the Chairman of the Council of the District of Columbia ("Council"); and

(2) Twelve members shall be appointed by the Mayor. An appointee of the Mayor shall serve as Chairperson of the Task Force.

(b)(1) The Council and the Mayor shall appoint as members clients who are served by public and private food assistance programs, experts in the areas of health and nutrition, members of the food industry, emergency food providers, and members of public and community interest organizations that are headquartered and provide service in the District.

(2) The Mayor shall make appointments that include representation from the Commission on Social Services, the Commission on Public Health, the Office on Aging, and any other agency that provides public assistance in the District.

(c) The Task Force and the terms of its members shall expire 270 days from the 1st meeting of the Task Force. Any vacancy that occurs on the Task Force shall be filled in the same manner as the original appointment.

(d) Members of the Task Force shall be appointed within 45 days of March 6, 1991. The Chairperson of the Task Force shall convene an organizational meeting no later than 15 days after a majority of the members have been appointed. (Mar. 6, 1991, D.C. Law 8-201, § 2, 37 DCR 7476.)

**Legislative history of Law 8-201.** — Law 8-201, the "Task Force on Hunger Act of 1990," was introduced in Council and assigned Bill No. 8-510, which was referred to the Committee on Human Services. The Bill was adopted

on first and second readings on October 23, 1990, and November 13, 1990, respectively. Signed by the Mayor on November 20, 1990, it was assigned Act No. 8-266 and transmitted to both Houses of Congress for its review.

## § 2-3702. Powers and duties of the Task Force.

(a) The Task Force shall:

(1) Identify and analyze the population that is subjected to hunger and investigate the reasons for its condition of hunger;

(2) Assess the needs of persons who are subjected to hunger and analyze the availability of counselling in the areas of health and nutrition, job training and placement, housing, and life skills development;

(3) Review District food assistance programs and identify areas of success and areas of inadequate service;

(4) Review private food assistance programs that operate in the District and review the extent of coordination of the private food assistance programs with District programs;

(5) Make recommendations that are designed to end hunger in the District and devise goals, objectives, and the steps necessary to implement the recommendations;

(6) Establish priorities and a timetable for achievement of the implementation of the goals, objectives, and steps recommended by the Task Force; and

(7) Identify any individual, organization, or agency that can facilitate the implementation of the recommendations and goals of the Task Force.

(b) The Task Force shall solicit public comment with respect to its recommendations.

(c) Within 180 days after the 1st meeting of the Task Force, the Task Force shall submit to the Council and the Mayor a final comprehensive report that contains specific recommendations for appropriate legislative, administrative, and regulatory action on means to end hunger in the District. (Mar. 6, 1991, D.C. Law 8-201, § 3, 37 DCR 7476.)

**Section references.** — This section is referred to in § 2-3704.

**Legislative history of Law 8-201.** — See note to § 2-3701.

### **§ 2-3703. Compensation and expenses of the Task Force members.**

Each member of the Task Force shall serve without compensation. (Mar. 6, 1991, D.C. Law 8-201, § 4, 37 DCR 7476.)

**Legislative history of Law 8-201.** — See note to § 2-3701.

### **§ 2-3704. Staffing and budget.**

The Mayor shall provide office space, detail staff, and provide technical and administrative support to assist the Task Force in the fulfillment of its duties in accordance with § 2-3702. (Mar. 6, 1991, D.C. Law 8-201, § 5, 37 DCR 7476.)

**Legislative history of Law 8-201.** — See note to § 2-3701.

### **§ 2-3705. Rules.**

(a) The Mayor may, pursuant to subchapter I of Chapter 15 of Title 1, issue rules to implement the provisions of this chapter.

(b) The Task Force may create and implement internal rules necessary to carry out the provisions of this chapter. (Mar. 6, 1991, D.C. Law 8-201, § 6, 37 DCR 7476.)



**Legislative history of Law 8-201.** — See  
note to § 2-3701.

### **§ 2-3706. Applicability.**

The duties and rights established by this chapter shall apply after April 30, 1991. (Mar. 6, 1991, D.C. Law 8-201, § 7, 37 DCR 7476.)

**Legislative history of Law 8-201.** — See  
note to § 2-3701.

CHAPTER 38. ALZHEIMER'S DISEASE STUDY COMMISSION.

Sec.

2-3801. Alzheimer's Disease Study Commission established.

2-3802. Duties.

Sec.

2-3803. Report.

2-3804. Expenses; office space.

§ 2-3801. Alzheimer's Disease Study Commission established.

(a) There is established a District of Columbia Alzheimer's Disease Study Commission ("ADSC") that shall be comprised of 21 members to be appointed by the Mayor in accordance with subsection (b) of this section and a chairperson to be selected by the Mayor with the advice and consent of the Council of the District of Columbia ("Council").

(b) The Mayor shall make appointments to include the following:

(1) The Director of the Department of Human Services or his or her designee;

(2) The Chairperson of the Committee on Human Services of the Council;

(3) The Director of the Office on Aging;

(4) The Commissioner of Public Health;

(5) The Administrator of the Long Term Care Administration;

(6) The Administrator of the Family Services Administration;

(7) A representative from the Commission on Aging;

(8) Two members of the governing body of a major association that deals with Alzheimer's Disease and Related Disorders ("ADR");

(9) Two specialists on Alzheimer's Disease and gerontology from District of Columbia ("District") universities;

(10) A nurse with expertise in gerontology;

(11) A clinical social worker with expertise in services to the aged and disabled;

(12) A person with expertise in home health care;

(13) A person with expertise in nursing home care;

(14) A representative of a major health insurance association;

(15) A person with expertise in adult day care;

(16) An attorney with expertise in legal issues that affect the aged;

(17) A physician with expertise in primary care for patients with Alzheimer's Disease; and

(18) Two caregivers who service Alzheimer's Disease patients.

(c) The ADSC and the terms of its members shall expire 18 months from the date of the 1st meeting of the ADSC. A vacancy that occurs on the ADSC shall be filled in the same manner as the original appointment.

(d) Each member of the ADSC shall be appointed within 45 days of March 8, 1991. The chairperson of the ADSC shall convene an organizational meeting no later than 15 days after a majority of the members have been appointed. (Mar. 8, 1991, D.C. Law 8-241, § 2, 38 DCR 341.)

**Legislative history of Law 8-241.** — Law 8-241, the "Alzheimer's Disease Study Commission Act of 1990," was introduced in Council and assigned Bill No. 8-479, which was referred to the Committee on Human Services. The Bill was adopted on first and second read-

ings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-324 and transmitted to both Houses of Congress for its review.

## § 2-3802. Duties.

The ADSC shall:

- (1) Study all matters that relate to ADRD, ADRD patients, ADRD patient care, and ADRD patient family care in the District;
- (2) Collect data on the incidence, prevalence, and geographic distribution of ADRD and make recommendations to improve the availability of this data;
- (3) Identify available resources and gaps in needed services for persons that suffer from ADRD and their families, and make recommendations for improving services, support systems, and funding mechanisms to address the needs of persons that suffer from ADRD and their families;
- (4) Promote and provide educational programs for health professionals that concern the diagnosis, resources for management, and documentation of ADRD;
- (5) Develop a network of health professionals throughout the District with special interest and expertise in the diagnosis and management of persons with ADRD to be a resource for counseling caregivers and provide consultation to other service providers;
- (6) Provide public education to increase understanding and awareness of ADRD and the resources available to assist affected persons and their families;
- (7) Encourage research of the causes and effective treatment of ADRD; and
- (8) Solicit public comment with respect to ADSC findings. (Mar. 8, 1991, D.C. Law 8-241, § 3, 38 DCR 341.)

**Section references.** — This section is referred to in § 2-3803.

**Legislative history of Law 8-241.** — See note to § 2-3801.

## § 2-3803. Report.

Within 18 months of the 1st meeting of the ADSC, the ADSC shall submit to the Council and the Mayor a final report that contains specific recommendations for appropriate legislative, administrative, and regulatory action on issues listed in § 2-3802. (Mar. 8, 1991, D.C. Law 8-241, § 4, 38 DCR 341.)

**Legislative history of Law 8-241.** — See note to § 2-3801.



**§ 2-3804. Expenses; office space.**

(a) A member of the ADSC shall serve without compensation.

(b) The Mayor shall provide sufficient office space, detail staff and technical and administrative support to assist the ADSC with the fulfillment of its duties in accordance with this chapter. (Mar. 8, 1991, D.C. Law 8-241, § 5, 38 DCR 341.)

**Legislative history of Law 8-241.** — See note to § 2-3801.

## CHAPTER 39. COMMISSION FOR MEN.

Sec.

2-3901. Establishment of advisory task force on men.

2-3902. Establishment of Commission for Men.

Sec.

2-3903. Qualifications; terms of office.

2-3904. Compensation.

2-3905. Powers of the Commission.

2-3906. Administration.

**§ 2-3901. Establishment of advisory task force on men.**

The Mayor shall establish an advisory task force on men in the District of Columbia ("District"). The advisory task force shall evaluate the immediate needs and problems of men residing in the District of Columbia. The advisory task force shall set an agenda for the Commission for Men to study the problems identified. (Feb. 23, 1994, D.C. Law 10-72, § 2, 40 DCR 7585.)

**Legislative history of Law 10-72.** — Law 10-72, the "Commission for Men Act of 1993," was introduced in Council and assigned Bill No. 10-104, which was referred to the Committee on Public Services and Youth Affairs. The Bill was adopted on first and second readings on September 21, 1993, and October 5, 1993, respectively. Signed by the Mayor on October

26, 1993, it was assigned Act No. 10-128 and transmitted to both Houses of Congress for its review. D.C. Law 10-72 became effective on February 23, 1994.

**Expiration of Law 10-72.** — Section 8(b) of D.C. Law 10-72 provided that the act shall expire 3 years after its effective date.

**§ 2-3902. Establishment of Commission for Men.**

There is established a Commission for Men ("Commission") to begin official business upon completion of the appointment of all commissioners. (Feb. 23, 1994, D.C. Law 10-72, § 3, 40 DCR 7585.)

**Legislative history of Law 10-72.** — See note to § 2-3901.

**Expiration of Law 10-72.** — See note to § 2-3901.

**§ 2-3903. Qualifications; terms of office.**

(a) The Commission shall consist of 15 adult members and 3 youth members. Two adult members shall be appointed by the Mayor and 1 adult member shall be appointed by each of the 13 Councilmembers. One youth member shall be appointed by the Mayor and 2 youth members shall be appointed by the chairman of the Council committee that has oversight authority of the Commission. The Commission shall elect a chairperson from among the members. The chairperson shall serve a term of 1 year and shall serve in that capacity for no more than 2 consecutive terms.

(b) Members of the Commission shall be residents of the District of Columbia with experience or knowledge in 1 or more of the following areas: public policy making, private sector issues, criminal justice and penology, education, employment, economics, family relationships, sociology, morbidity, health care, public affairs, and other issues of particular interest and concern to men.

(c) Members of the Commission shall serve a 1-year term of office.

(d) A vacancy on the Commission shall be filled in the same manner as the original appointment.

(e) A member of the Commission may continue to serve after the expiration of the member's term until a successor is appointed and sworn into office.

(f) A member of the Commission may be reappointed, but no member may serve more than 2 consecutive terms.

(g) The Mayor may remove a member of the Commission for neglect of duty, incompetence, or misconduct after notice to the member.

(h) A majority of the members of the Commission shall constitute a quorum. (Feb. 23, 1994, D.C. Law 10-72, § 4, 40 DCR 7585.)

**Legislative history of Law 10-72.** — See note to § 2-3901.

**Expiration of Law 10-72.** — See note to § 2-3901.

### **§ 2-3904. Compensation.**

Members of the Commission shall receive no compensation, but may be reimbursed for actual expenses incurred in the performance of official duties, pursuant to rules issued by the Mayor in accordance with § 1-612.8. (Feb. 23, 1994, D.C. Law 10-72, § 5, 40 DCR 7585.)

**Legislative history of Law 10-72.** — See note to § 2-3901.

**Expiration of Law 10-72.** — See note to § 2-3901.

### **§ 2-3905. Powers of the Commission.**

(a) The Commission shall:

- (1) Advocate and develop policy initiatives;
- (2) Publish an annual report specifying annual goals;
- (3) Indicate and review the degree of progress towards accomplishing the goals;
- (4) Conduct studies;
- (5) Develop, recommend, and undertake action; and
- (6) Initiate and conduct an annual public hearing on issues that affect males including, but not limited to, the following:
  - (A) Mental and physical health care;
  - (B) Substance abuse;
  - (C) Housing and community development;
  - (D) Economic development;
  - (E) Entrepreneurship;
  - (F) Public and private employment practices, including matters pertaining to hours, wages, training, working conditions, and meaningful employment;
  - (G) Educational methods and practices to encourage males to graduate from high school and enroll in college or other alternative educational programs;
  - (H) Law enforcement matters and rebuilding the lives of men involved in the criminal justice system;
  - (I) Strengthening the role of the male in the family unit; and
  - (J) Increasing male understanding and appreciation of sexual harassment and sexism matters.



(b) The Commission is authorized to apply for and receive grants to fund its program activities in accordance with District of Columbia regulations related to the management of grants.

(c) The Commission may accept private gifts and donations to carry out the purposes of this chapter.

(d) The Commission shall stimulate and encourage the study and review of the status of men in the District of Columbia and may act as a clearinghouse for related activities. (Feb. 23, 1994, D.C. Law 10-72, § 6, 40 DCR 7585.)

**Legislative history of Law 10-72.** — See note to § 2-3901.

**Expiration of Law 10-72.** — See note to § 2-3901.

## § 2-3906. Administration.

(a) The Mayor shall appoint, with the advice and consent of the Council, an Executive Director of the Commission. The Executive Director shall be the chief administrative officer of the Commission. The Executive Director shall report regularly to the Mayor, the Council and the Commission on staff activities and the progress of the Commission. The Executive Director shall be entitled to receive compensation in accordance with § 1-612.8, and be reimbursed for reasonable travel and other expenses incurred in the performance of his duties.

(b) Additional staff service for the Commission shall be supplied in accordance with positions and funding approved in the District of Columbia budget. (Feb. 23, 1994, D.C. Law 10-72, § 7, 40 DCR 7585.)

**Legislative history of Law 10-72.** — See note to § 2-3901.

**Expiration of Law 10-72.** — See note to § 2-3901.



## TITLE 3. PUBLIC CARE SYSTEMS.

### Chapter

- |  |                        |
|--|------------------------|
| 1. Public Welfare Supervision .....                      | §§ 3-101 to 3-126.     |
| 2. Public Assistance .....                               | §§ 3-201.1 to 3-221.1. |
| 3. Day Care .....  | §§ 3-301 to 3-314.     |
| 4. Compensation of Victims of Violent Crime .....        | §§ 3-401 to 3-415.     |
| 4A. Merchant's Civil Recovery for Criminal Conduct ..... | §§ 3-441 to 3-446.     |
| 5. Health-Care Assistance Reimbursement .....            | §§ 3-501 to 3-509.     |
| 6. Right to Overnight Shelter .....                      | §§ 3-601 to 3-622.     |
| 7. Medicaid Provider Fraud Prevention .....              | §§ 3-701 to 3-705.     |
| 8. Youth Residential Facilities Licensures .....         | §§ 3-801 to 3-808.     |
| 9. Employees' Child Care Facilities .....                | §§ 3-901 to 3-905.     |
| 10. Emergency Assistance Program .....                   | §§ 3-1001 to 3-1032.   |
| 11. D.C. General Hospital Hospice Program .....          | §§ 3-1101 to 3-1105.   |

### CHAPTER 1. PUBLIC WELFARE SUPERVISION.

- | Sec.   | Sec.   |
|--|--|
| 3-101. Board of Charities, Board of Children's Guardians, and National Training School for Girls abolished.                  | 3-113. Members and employees to have no interest in contracts.   |
| 3-102. Board of Public Welfare — Created; successor to abolished Boards; employees transferred.                              | 3-114. Powers of Mayor over dependent children.  |
| 3-103. Same — Composition; appointment; term of office; vacancies; residency requirement; removal; compensation.             | 3-114.1. Limitation in number of dependent children.   |
| 3-104. Same — Officers; meetings; authority to make rules, regulations, and orders.  | 3-115. Adoption subsidy payments.  |
| 3-105. Director of Public Welfare.   | 3-116. Children over whom Board shall have supervision.  |
| 3-106. Institutions placed under control of Board.   | 3-117. Powers of Mayor regarding custody, placement and adoption of dependent children.                    |
| 3-107. Institutional personnel under supervision of Board; duties of superintendent; appointment and discharge of personnel. | 3-118. Investigation of children; confidentiality of records; study of physical and mental conditions.     |
| 3-108. Rules and regulations relating to admissions of persons and administration of institutions.                           | 3-119. Commitments by Family Division of Superior Court; placement by Board.                               |
| 3-109. Registration records; system of accounts.   | 3-120. Commitment of children under 17 years of age.   |
| 3-110. Powers of Board of Charities transferred.   | 3-121. Duties of Trustees of National Training School for Girls transferred.                               |
| 3-111. Supervision over institutions supported by congressional appropriations.  | 3-122. Annual budget; report of activities; recommendations; study of social and environmental conditions. |
| 3-112. Submission of plans for new institutions; investigation of institutions.  | 3-123. Visitation of wards.  |
|  | 3-124. Discharge from guardianship.  |
|  | 3-125. Duties and responsibilities of Board.   |
|  | 3-126. Assisting child to leave institution without authority; concealing such child; duty of police.      |



**§ 3-101. Board of Charities, Board of Children's Guardians, and National Training School for Girls abolished.**

Omitted.

**Omission of text.** — The provisions of former § 3-101 have been omitted as obsolete, the Boards referred to herein having been abolished. The former Board of Charities, Board of Children's Guardians, and the Board of Trustees of the National Training School for

Girls were abolished upon the appointment and organization of the Board of Public Welfare pursuant to the Act of March 16, 1926, 44 Stat. 208, ch. 58, § 1. The Board of Public Welfare was subsequently abolished. See notes to § 3-102.

**§ 3-102. Board of Public Welfare — Created; successor to abolished Boards; employees transferred.**

Omitted.

**Omission of text.** — The provisions of former § 3-102 have been omitted as obsolete, the Board referred to herein having been abolished.

**Section references.** — This section is referred to in § 3-125.

**Board of Public Welfare abolished.** — The Board of Public Welfare was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 58, as amended, redesignated as Organization Order No. 140 and amended, established, under the direction and control of a Commissioner, a Department of Public Welfare, headed by a Director with the purpose of planning, implementing, and directing public welfare programs. Reorganization

Order No. 58 provided that the previously existing Board of Public Welfare would be abolished. That Order also transferred specified functions of the former Board to the Department of Public Health and the Department of Public Welfare. Functions of the Department of Public Welfare and of the Department of Public Health, as set forth in Organization Order Nos. 140 and 141, respectively, were transferred to the Department of Human Resources by Commissioner's Order No. 69-96, dated March 7, 1969, as amended by Commissioner's Order No. 70-83, dated March 6, 1970. The Department of Human Resources was replaced by the Department of Human Services by Reorganization Plan No. 2 of 1979, dated February 21, 1980.

**§ 3-103. Same — Composition; appointment; term of office; vacancies; residency requirement; removal; compensation.**

Omitted.

**Omission of text.** — The provisions of former § 3-103 have been omitted as obsolete, the

Board referred to herein having been abolished. See notes to § 3-102.

**§ 3-104. Same — Officers; meetings; authority to make rules, regulations, and orders.**

Omitted.

**Omission of text.** — The provisions of former § 3-104 have been omitted as obsolete, the

Board referred to herein having been abolished. See notes to § 3-102.

### § 3-105. Director of Public Welfare.

The Mayor of the District of Columbia, upon the nomination of the Board, is hereby authorized to appoint a Director of Public Welfare, which position is hereby authorized and created, who shall be the chief executive officer of the Board and shall be charged, subject to its general supervision, with the executive and administrative duties provided for in this act. The Director shall be a person of such training, experience, and capacity as will especially qualify him or her to discharge the duties of the office. The Director of Public Welfare may be discharged by the Mayor of the District of Columbia upon recommendation of the Board. The Mayor of the District of Columbia is authorized, upon the nomination of the Board, to appoint such personnel as may be necessary for the efficient performance of the duties of the Board. (Mar. 16, 1926, 44 Stat. 209, ch. 58, § 5; Dec. 20, 1941, 55 Stat. 849, ch. 605, § 1; 1973 Ed., § 3-105; Mar. 3, 1979, D.C. Law 2-139, § 3205(ss), 25 DCR 5740.)

**Cross references.** — As to rules and regulations, see § 1-319. As to effective date of D.C. Law 2-139, see § 1-637.1. As to duties concerning persons found guilty under laws against prostitution, see § 22-2703.

**Section references.** — This section is referred to in § 1-637.1.

**Legislative history of Law 2-139.** — Law 2-139, the "District of Columbia Government Comprehensive Merit Personnel Act of 1978," was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

**References in text.** — "This act," referred to at the end of the first sentence in this section, means the Act of March 16, 1926, 44 Stat. 209, ch. 58.

**Change in government.** — This section originated at a time when local government

powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**Board of Public Welfare abolished.** — See note to § 3-102.

**Cited in** *Meadows v. Palmer*, 775 F.2d 1193 (D.C. Cir. 1985).

### § 3-106. Institutions placed under control of Board.

The Board shall have complete and exclusive control and management of the following institutions of the District of Columbia:

- (1) The workhouse at Occoquan in the State of Virginia;
- (2) The reformatory at Lorton in the State of Virginia;
- (3) The Washington Asylum and Jail;
- (4) The National Training School for Girls, in the District of Columbia and at Muirkirk in the State of Maryland;
- (5) The Gallinger Municipal Hospital;
- (6) The Tuberculosis Hospital;
- (7) The Home for the Aged and Infirm;

- (8) The Municipal Lodging House;
  - (9) The Industrial Home School;
  - (10) Industrial Home School for Colored Children; and
  - (11) Forest Haven in Anne Arundel County, in the State of Maryland.
- (Mar. 16, 1926, 44 Stat. 209, ch. 58, § 6; 1973 Ed., § 3-106.)

**Cross references.** — As to management and regulation of Occoquan Workhouse, Lorton Reformatory, and Washington Asylum and Jail, see § 24-442. As to exclusive control and management of Industrial Home School, see § 32-701. As to control and supervision of Forest Haven, see §§ 32-802 and 32-803.

**Section references.** — This section is referred to in § 3-107.

**References in text.** — The District Training School was redesignated as Forest Haven by § 1(1) of the Act of October 22, 1970, 84 Stat. 1087, Pub. L. 91-490.

Statutory provisions for both the National Training School for Girls and the Industrial Home School for Colored Children were formerly codified in D.C. Code, §§ 32-901 to 32-913. These provisions were omitted from codification as obsolete in the 1973 Edition of the D.C. Code in light of the Act of August 3, 1951, 62 Stat. 154, ch. 291, § 1, which provided that no new commitments to the National Training School for Girls should be made after August 3, 1951.

**Transfer of functions.** — Management and regulation of the workhouse at Occoquan in the State of Virginia, the reformatory at Lorton in the State of Virginia, and the Washington Asylum and Jail was vested in the Department of Corrections by the Act of June 27, 1946, 60 Stat. 320, ch. 507, § 2. The Department of Corrections was abolished and another Department of Corrections established under direction and control of a Commissioner and headed by a Director to take care of persons committed to the workhouse, Lorton Reformatory, Women's Reformatory and the D.C. Jail.

The direction and control of the Gallinger Municipal Hospital and the Tuberculosis Hospital had been transferred to the Health Department of the District of Columbia by the Act of June 29, 1937, 50 Stat. 376, ch. 403, § 1. Reorganization Order No. 57, as amended, redesignated as Organization Order No. 141 and amended, established, under the direction and control of a Commissioner, a Department of Public Health headed by a Director, for the purpose of planning, implementing, and directing public health and hospital care programs, and for performing certain other allied medical functions. Prior to its redesignation the Order abolished the previously existing Gallinger Municipal Hospital and transferred all of its positions and functions to the new Department. It further provided that within the Department the District of Columbia General Hospital performs all functions previously performed by Gallinger Municipal Hospital. Functions of the Department of Public Welfare and of the Department of Public Health as set forth in Organization Order Nos. 140 and 141, respectively, were transferred to the Director of the Department of Human Resources by Commissioner's Order No. 69-96, dated March 7, 1969, as amended by Commissioner's Order No. 70-83, dated March 6, 1970. The Department of Human Resources was replaced by the Department of Human Services by Reorganization Plan No. 2 of 1979, dated February 21, 1980.

**Board of Public Welfare abolished.** — See note to § 3-102.

### § 3-107. Institutional personnel under supervision of Board; duties of superintendent; appointment and discharge of personnel.

The superintendents and all other employees engaged in the operation of the institutions enumerated in § 3-106 shall be subject to the supervision of the Board. Each superintendent shall have the management and control of the institution to which he is appointed and shall be subordinate to the Director of Public Welfare. The superintendent and all other employees of each of the institutions enumerated in § 3-106 shall be appointed by the Mayor of the District of Columbia upon nomination by the Board and shall be subject to



discharge by the Mayor upon recommendation of the Board. (Mar. 16, 1926, 44 Stat. 209, ch. 58, § 7; 1973 Ed., § 3-107.)

**Cross references.** — As to approval of superintendents of prisons, see §§ 24-411 to 24-418a.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**Board of Public Welfare abolished.** — See note to § 3-102.

### § 3-108. Rules and regulations relating to admissions of persons and administration of institutions.

It shall be the duty of the Council of the District of Columbia to make such rules and regulations relating to the admission of persons to, and it shall be the duty of the Mayor to make such rules and regulations relating to the administration of, the institutions hereinbefore referred to, as will promote discipline and good conduct of inmates and employees and efficiency and economy in the operation of these institutions. (Mar. 16, 1926, 44 Stat. 209, ch. 58, § 9; 1973 Ed., § 3-108.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(81) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

### § 3-109. Registration records; system of accounts.

Under the authority herein granted, the Board may prescribe forms of record keeping to secure accuracy and completeness in the registration of persons under care and the services rendered in their behalf. The Board may recommend to the Comptroller General of the United States, and the Comptroller General may prescribe, so far as practicable, a uniform system of accounts to record receipts and disbursements and to determine comparative costs of operation. (Mar. 16, 1926, 44 Stat. 209, ch. 58, § 9; 1973 Ed., § 3-109.)

**Board of Public Welfare abolished.** —  
See note to § 3-102.

### § 3-110. Powers of Board of Charities transferred.

The following powers and duties prior to March 16, 1926, imposed by law upon the Board of Charities shall be vested in the Board, and the unexpended balance of all appropriations made for the purpose of discharging such powers and duties shall become available to the Board:

(1) To provide for the transportation to their respective places of residence of nonresident indigent persons, and to provide for indigent persons, who are legal residents of the District of Columbia, medical care and treatment when necessary, under contracts with such hospitals as are or may be designated by law;

(2) To provide for the transportation to their respective places of residence of nonresident insane persons and to afford hospital care for indigent insane persons who are legal residents of the District of Columbia in such hospital or hospitals as are or may be designated by law; and

(3) To provide for all other aged, infirm, or needy persons, in the manner authorized by law or by appropriations enacted by the Congress. (Mar. 16, 1926, 44 Stat. 210, ch. 58, § 10; 1973 Ed., § 3-110; Oct. 1, 1976, D.C. Law 1-87, § 5, 23 DCR 2544.)

**Cross references.** — As to nonresident insane persons, see § 21-551. As to duty to collect cost of maintenance of insane persons in hospital, see § 21-586.

**Legislative history of Law 1-87.** — See note to § 1-810.

**Board of Public Welfare abolished.** — See note to § 3-102.

**Residency established for medical treatment at public expense.** — Where a District of Columbia corporation was the custodian of a

mentally retarded orphan who was brought to the United States for the purpose of adoption, the orphan acquired a colorable claim to the District of Columbia "residence" for the purpose of medical treatment at public expense once she was placed directly in the custody of officials operating from the corporation's District of Columbia office; therefore, the District is liable for her care. *District of Columbia v. H.J.B.*, App. D.C., 359 A.2d 285 (1976).

### § 3-111. Supervision over institutions supported by congressional appropriations.

The said Board of Public Welfare shall visit, inspect, and maintain a general supervision over all institutions, societies, or associations of a charitable, eleemosynary, correctional, or reformatory character which are supported in whole or in part by appropriations of Congress, made for the care or treatment of residents of the District of Columbia; and no payment shall be made to any such charitable, eleemosynary, correctional, or reformatory institution for any resident of the District of Columbia who is not received and maintained therein pursuant to the rules established by such Board of Public Welfare, except in the case of persons committed by the courts, or abandoned infants needing immediate care. (June 6, 1900, 31 Stat. 664, ch. 807; Mar. 16, 1926, 44 Stat. 210, ch. 58, § 10; 1973 Ed., § 3-111.)

**Board of Public Welfare abolished.** —  
See note to § 3-102.

### § 3-112. Submission of plans for new institutions; investigation of institutions.

All plans for new institutions shall, before adoption of the same, be submitted to the Board of Public Welfare for suggestion and criticism. The Mayor of the District of Columbia may at any time order an investigation by the Board, or a committee of its members, of the management of any penal, charitable, or reformatory institution in the District of Columbia; and said Board, or any authorized committee of its members, when making such investigation, shall have power to send for persons and papers and to administer oaths and affirmations; and the report of such investigation, with the testimony, shall be made to the Mayor. (June 6, 1900, 31 Stat. 664, ch. 807; Mar. 16, 1926, 44 Stat. 210, ch. 58, § 10; 1973 Ed., § 3-112.)

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat.

818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**Board of Public Welfare abolished.** —  
See note to § 3-102.

### § 3-113. Members and employees to have no interest in contracts.

No member or employee of said Board shall be either directly or indirectly interested in any contract for building, repairing, or furnishing any institution which by this chapter the Board of Public Welfare is authorized to investigate and supervise. (June 6, 1900, 31 Stat. 665, ch. 807; Mar. 16, 1926, 44 Stat. 210, ch. 58, § 10; 1973 Ed., § 3-113.)

**Cross references.** — As to prohibition of trustees of charitable institutions supported by congressional appropriations from engaging in traffic with charitable institutions for gain, see § 32-1206.

**Board of Public Welfare abolished.** —  
See note to § 3-102.

### § 3-114. Powers of Mayor over dependent children.

(a) The Mayor of the District of Columbia (hereinafter referred to as the "Mayor") may:

(1) Make temporary provision for the care of children pending investigation of their status;

(2) Have the care and legal guardianship, including the power to consent to or arrange for adoption in appropriate cases, of:



(A) Children who may be committed to the Mayor as wards of the District of Columbia by courts of competent jurisdiction; and

(B) Children who are relinquished by their parents to the Mayor or whose relinquishment is transferred to the Mayor by a licensed child-placing agency under § 32-1007;

(3) Make such provisions for the care and maintenance of such children in private homes, under contract, including adoption subsidy pursuant to § 3-115, or in public or private institutions, as the welfare of such children may require; and

(4) Provide care and maintenance for substantially retarded children who may be received upon application or upon court commitment, in institutions or homes or other facilities equipped to receive them, within or without the District of Columbia.

(b) The Mayor shall cause the wards of the District of Columbia placed out under temporary care to be visited as often as may be required to safeguard their welfare.

(c) The Mayor may, where appropriate, secure an assignment of rights from a parent whose child is in the custody of a person or agency receiving foster care maintenance payments under Part E in Subchapter IV of the Social Security Act (42 U.S.C. § 670 et seq.). (Mar. 16, 1926, 44 Stat. 210, ch. 58, § 11; 1973 Ed., § 3-114; Jan. 2, 1974, 87 Stat. 1057, Pub. L. 93-241, § 1(a)(1); Feb. 24, 1987, D.C. Law 6-166, § 33(e), 33 DCR 6710.)

**Cross references.** — As to age of majority, see § 30-401.

**Section references.** — This section is referred to in § 3-114.1.

**Legislative history of Law 6-166.** — Law 6-166, the "D.C. Child Support Enforcement Amendment Act of 1985," was introduced in Council and assigned Bill No. 6-134, which was referred to the Committee on Human Services and reassigned to the Committee on the Judiciary. The Bill was adopted on first and second readings on July 8, 1986 and September 23, 1986, respectively. Signed by the Mayor on October 9, 1986, it was assigned Act No. 6-212 and transmitted to both Houses of Congress for its review.

**Delegation of authority pursuant to Law 6-166.** — See Mayor's Order 87-273, December 10, 1987.

**Change in government.** — This section originated at a time when local government

powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Government Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 3-114.1. Limitation in number of dependent children.

(a) The number of children who have been in care pursuant to § 3-114(a)(2) for a period of 2 years or more, should be:

- (1) Not more than 1,283 children as of September 30, 1984;
- (2) Not more than 965 children as of September 30, 1985;
- (3) Not more than 1,113 children as of September 30, 1986;

(4) Not more than 920 children as of September 30, 1987;

(5) Not more than 62% of the total number of children in foster care as of September 30, 1992;

(6) Not more than 60% of the total number of children in foster care as of September 30, 1993; and

(7) Not more than 58% of the total number of children in foster care as of September 30, 1994.

(b) The following steps will be taken to achieve these goals:

(1) Increase the number of children referred for adoption services through purchase of service contracts;

(2) Conduct permanency planning for all children in foster care, including an annual administrative review for each child;

(3) Provide for decreased caseloads and intensive services with emphasis on prevention of placements or early reunification of families;

(4) Repealed; and

(5) Strengthen programs to assist teenage youth in preparing for independent living.

(c) During the fiscal years ending September 30, 1992, September 30, 1993, and September 30, 1994, the Director of the Department of Human Services ("Director") shall report quarterly to the Council of the District of Columbia ("Council") regarding:

(1) The total number of children in care, their ages, legal statuses, and goals;

(2) The number of children who entered care during the previous quarter (by month), their ages, legal statuses, and the primary reasons they entered care;

(3) The number of children who have been in care for 24 months or longer, the number of children who became part of this class during the previous quarter (by month), and the ages and legal statuses of these children; and

(4) The number of children who left care during the previous quarter (by month), the number of children in this class who had been in care for 24 months or longer, the ages and legal statuses of these children, and the reasons for their removal from care.

(d) On November 1 of each year, the Director shall submit to the Council a summary of the cases terminated during the previous fiscal year and any difficulties encountered in reaching the goal stated in subsection (a) of this section. (May 17, 1983, D.C. Law 5-4, § 3, 30 DCR 1576; Oct. 8, 1983, D.C. Law 5-30, § 2, 30 DCR 3876; Sept. 26, 1984, D.C. Law 5-107, § 2, 31 DCR 3388; Apr. 11, 1986, D.C. Law 6-104, § 2, 33 DCR 1160; Mar. 20, 1992, D.C. Law 9-84, § 2, 39 DCR 702; Oct. 1, 1992, D.C. Law 9-166, § 2, 39 DCR 5819.)

**Effect of amendments.** — D.C. Law 9-166, in (a), added (5), (6), and (7); and in (c), substituted "During the fiscal years ending September 30, 1992, September 30, 1993, and September 30, 1994" for "During the fiscal years ending September 30, 1985, September 30, 1986, and September 30, 1987".

**Temporary amendments of section.** —

Section 2(a) of D.C. Law 9-84 added (a)(5). Section 2(b) of D.C. Law 9-84 in (c) substituted "During the fiscal year ending September 30, 1992" for "During the fiscal years ending September 30, 1985, September 30, 1986 and September 30, 1987".

Section 3(a) of D.C. Law 9-84 provided that the Mayor shall make reports to the Council of



the District of Columbia; section 3(b) of D.C. Law 9-84 provided that the Mayor shall submit the report on or before February 10, 1992.

Section 4(b) of D.C. Law 9-84 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 2 of the Foster Care Goals Act of 1983 Emergency Amendment Act of 1991 (D.C. Act 9-130, January 9, 1992, 39 DCR 327).

**Legislative history of Law 5-4.** — Law 5-4, the "Foster Care Goal Temporary Act of 1983," was introduced in Council and assigned Bill No. 5-94, which was retained by Council. The Bill was adopted on the first and second readings on February 15, 1983, and March 15, 1983, respectively. Signed by the Mayor on March 24, 1983, it was assigned Act No. 5-18 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 5-30.** — Law 5-30, the "Foster Care Goals Act of 1983," was introduced in Council and assigned Bill No. 5-199, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 28, 1983, and July 12, 1983, respectively. Signed by the Mayor on July 21, 1983, it was assigned Act No. 5-52 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 5-107.** — Law 5-107, the "Foster Care Goals Act Amendment Act of 1984," was introduced in Council and assigned Bill No. 5-404, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 12, 1984, and June 26, 1984, respectively. Signed by the Mayor on June 29, 1984, it was assigned Act No. 5-149 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-104.** — Law 6-104, the "Foster Care Goals Act Amendment Act of 1985," was introduced in Council and assigned Bill No. 6-239, which was referred to

the Committee on Human Services. The Bill was adopted on first and second readings on January 14, 1986 and January 28, 1986, respectively. Approved without the signature of the Mayor on February 14, 1986, it was assigned Act No. 6-133 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-84.** — Law 9-84, the "Foster Care Goals Act Temporary Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-372, which was retained by Council. The Bill was adopted on first and second readings on December 17, 1991, and January 7, 1992, respectively. Signed by the Mayor on January 28, 1992, it was assigned Act No. 9-142 and transmitted to both Houses of Congress for its review. D.C. Law 9-84 became effective on March 20, 1992.

**Legislative history of Law 9-166.** — Law 9-166, the "Foster Care Goals Act of 1983 Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-373, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 2, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 23, 1992, it was assigned Act No. 9-264 and transmitted to both Houses of Congress for its review. D.C. Law 9-166 became effective on October 1, 1992.

**Reports required by Director of Department of Human Services.** — Section 2 of D.C. Law 5-4 provided that the Director of the Department of Human Services shall report to the Council of the District of Columbia monthly regarding the number of foster care cases that have been terminated during the previous month and number of children entering care during the previous month, and that on October 1 of each year, the Director shall submit a summary report of the cases terminated during the prior fiscal year and any difficulties encountered in reaching the goal stated in § 3 of D.C. Law 5-4. Section 4(b) of D.C. Law 5-4 provided that the act shall expire on the 180th day after May 17, 1983.

## § 3-115. Adoption subsidy payments.

(a) Except as provided in subsection (f) of this section, the Mayor may conclude arrangements with persons or institutions at such rates as may be agreed upon.

(b)(1) The Mayor may make adoption subsidy payments to an adoptive family (irrespective of the state of residence of the family), as needed, on behalf of a child with special needs, where such child would in all likelihood go without adoption except for the acceptance of the child as a member of the adoptive family, and where the adoptive family has the capability of providing the permanent family relationships needed by such child in all areas except financial, as determined by the Mayor. Subsidy payments may be made under



this section only pursuant to a subsidy payment agreement entered into by the Mayor and the adoptive parents concerned prior to completion of the adoptive process, but subsidy payments may be made before such adoption becomes final.

(2) For the purposes of this subsection:

(A) The term "child with special needs" includes any child who is difficult to place in adoption because of age, race, or ethnic background, physical or mental condition, or membership in a sibling group which should be placed together. A child for whom an adoptive placement has not been made within 6 months after he is legally available for adoptive placement shall be considered a child with special needs within the meaning of this section.

(B) The term "adoptive family" includes single persons.

(c) Any public agency or licensed child-placing agency, having a child with special needs in foster care or institutional care, or any foster parent having such a child in his home may recommend to the Mayor a subsidy for the adoption of such child, and may include in the recommendation advice as to the appropriate level of payments and any other information likely to assist the Mayor in carrying out the provisions of this section. The Mayor shall make the determination as to whether or not an appropriate adoptive home exists for the child, but in so doing the Mayor shall refer to the recommendations of the referring agency. If the Mayor concludes that the child referred is a child with special needs within the meaning of this section, and that an appropriate adoptive home exists for the child, the Mayor is authorized to enter into a tentative adoption subsidy agreement with the prospective adoptive family, and upon entering into such an agreement, the Mayor may accept a transfer of relinquishment of parental rights from the referring agency pursuant to § 32-1007.

(d) If a child in the custody of the Mayor or a licensed child-placing agency has been in foster care or institutional care for at least 6 months after the child is considered legally available for adoptive placement, the Mayor or agency shall inform the family or institution providing care of the possibility of financial aid for adoption under this section. If the family caring for the prospective adoptee applies to the Mayor for adoption of the child, and if it appears to the Mayor after study that the family would be an appropriate adoptive family for the child but for the family's economic inability to meet the child's needs, the Mayor shall enter into a tentative agreement with the family concerning the amount and duration of a proposed subsidy in the event the child is placed for adoption with that family. Thereafter the Mayor may accept a transfer of relinquishment of parental rights from the referring agency in appropriate cases. The Mayor shall in all cases take all steps necessary to assist the family in completing the legal and procedural requirements necessary to effectuate the adoption, including payment for legal fees and court costs.

(e) The amount and duration of adoption subsidy payments may vary according to the special needs of the child, and may include maintenance costs, medical, dental, and surgical expenses, psychiatric and psychological expenses, and other costs necessary for his care and well-being. A subsidy may

be paid on a long-term basis to help a family whose income is limited and is likely to remain so; on a time-limited basis to help a family meet the cost of integrating a child into the family over a specified period of time; or on a special services basis to help a family meet a specific anticipated expense or expenses when no other resource appears to be available. Eligibility for payments shall continue until the child reaches 18 years of age.

(f) The Mayor is authorized to make payments under this section from appropriations for the care of children in foster homes and institutions, and to seek and accept funds from other sources including federal, private, and other public funding sources, to carry out the purposes of this section. The amount expended by the Mayor for any subsidy may not exceed the highest amount the Mayor would be authorized to spend in providing or securing support and special services for the child if the child were in the legal custody of the Mayor. There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

(g) No adoption subsidy payment shall be made on behalf of any child with respect to whom an adoption decree has been entered by the Superior Court of the District of Columbia, pursuant to Chapter 3 of Title 16, prior to April 2, 1974.

(h) Once during each calendar year the Mayor shall review the need for continuing each family's subsidy. At the time of such review and at other times during the year when changed conditions, including variations in medical opinions, prognosis, and costs are deemed by the Mayor to warrant such action, appropriate adjustments in payments shall be made based upon changes in the needs of the child. Any parent who is a party to a subsidy agreement may at any time in writing request, for reasons set forth in the request, a review of the amount of any payment or the level of continuing payments. Such review shall be begun not later than 30 days from the receipt of the request. Any adjustment may be made retroactive to the date the request was received by the Mayor. If the request is not acted on within 30 days after it has been received by the Mayor, or if the Mayor modifies or terminates an agreement without the concurrence of all parties, any party to the agreement shall be entitled to a hearing under the applicable provisions of subchapter I of Chapter 15 of Title 1.

(i)(1) The Mayor shall keep such records as are necessary to evaluate the effectiveness of adoption subsidy as a means of encouraging and promoting the adoption of children with special needs. The Mayor shall make an annual progress report which shall be open to public inspection. The report shall include, but not be limited to:

(A) The number of children placed in adoptive homes under subsidy agreements during the year preceding the annual report and the major characteristics of the children placed; and

(B) The number of children currently in foster care with the Mayor for 6 months or more, and the legal status of those children.

(2) The Mayor shall disseminate information to prospective adoptive families as to the availability of adoptable children and of the existence of aid to families who qualify for a subsidy under this section.



(j) All rules and regulations adopted by the Mayor pursuant to §§ 3-115 to 3-118 shall be published in the District of Columbia Register as required by § 1-1506. (July 26, 1892, 27 Stat. 269, ch. 250, § 3; 1973 Ed., § 3-115; Jan. 2, 1974, 87 Stat. 1058, Pub. L. 93-241, § 1(a)(2).)

**Cross references.** — As to age of majority, see § 30-401.

**Section references.** — This section is referred to in §§ 3-114, 3-117, 16-307 and 16-309.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

## § 3-116. Children over whom Board shall have supervision.

Said Board of Public Welfare shall have the care and supervision of the following classes of children:

(1) All children committed under § 32-909;

(2) All children who are destitute of suitable homes and adequate means of earning an honest living, all children abandoned by their parents or guardians, all children of habitually drunken or vicious or unfit parents, all children habitually begging on the streets or from door to door, all children kept in vicious or immoral associations, all children known by their language or life to be vicious or incorrigible whenever such children may be committed to the care of the Board by the Family Division of the Superior Court; provided, that the laws regulating the commitment of children to the training schools of the District shall not be deemed to be repealed in any part by this section;

(3) Such children as the Board of Trustees of the National Training School for Boys may, in their discretion, commit to the Board of Public Welfare, and power is hereby given the Board of Trustees of the said School to commit any inmate thereof to the said Board of Public Welfare, conditionally upon the good behavior of the child so committed;

(4) Under the rules to be established by the Council of the District of Columbia children may be received and temporarily cared for pending investigation or judgment of the court. (July 26, 1892, 27 Stat. 269, ch. 250, § 4; Mar. 19, 1906, 34 Stat. 73, ch. 960, § 8; May 27, 1908, 35 Stat. 380, ch. 200; Mar. 16, 1926, 44 Stat. 210, ch. 58, § 11; July 29, 1970, 84 Stat. 577, Pub. L. 91-358, title I, § 159(b); 1973 Ed., § 3-116.)

**Cross references.** — As to duty to designate hospital for treatment to prevent blindness of newborn infants, see § 6-302. As to commitment by Family Division of Superior Court in proceedings regarding delinquency, neglect, or need of supervision, see §§ 3-119 and 16-2301 to 16-2337. As to age of majority,

see § 30-401. As to commitment of minors employed in violation of law, see § 36-519.

**Section references.** — This section is referred to in § 3-115.

**References in text.** — The Board of Trustees of the National Training School for Boys, referred to in paragraph (3) of this sec-



tion, was abolished and the School and its functions, including the functions of the Board of Trustees, were transferred to the Department of Justice by Reorganization Plan No. 2 of 1939. The School was operated until May 15, 1968, when it was closed pursuant to an order of the Attorney General.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(82) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia.

These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**Board of Public Welfare abolished.** — See note to § 3-102.

**Objective of legislation dealing with juvenile offenders is rehabilitation,** not punishment. In re Kroll, App. D.C., 43 A.2d 706 (1945).

**Right of custody not automatically ended by child's marriage.** — Under this section, the marriage of an incorrigible, 15-year-old female does not automatically end the right of custody and care by the government nor does it give her the right to release, on habeas corpus, from the institution to which she has been committed. *Richardson v. Brown*, 18 F.2d 1008 (D.C. Cir. 1927).

**Cited in** *Butler v. Metropolitan Life Ins. Co.*, 500 F. Supp. 661 (D.D.C. 1980).

## § 3-117. Powers of Mayor regarding custody, placement and adoption of dependent children.

The Mayor may:

(1) Accept for care, custody, and guardianship dependent or neglected children whose custody or parental control has been transferred to the Mayor, and to provide for the care and support of such children during their minority or during the term of their commitment, including the initiation of adoption proceedings and the provision of subsidy in appropriate cases under § 3-115;

(2) With respect to all children accepted by him for care, place them in private families either without expense or with reimbursement for the cost of care, or in appropriate cases to place them in private families under an adoption subsidy agreement concluded under § 3-115 or to place them in institutions willing to receive them either without expense or with reimbursement for the cost of care; and

(3) Consent to, arrange for, or initiate court proceedings for the adoption of all children committed to the care of the Mayor whose parents have been permanently deprived of custody by court order, or whose parents have relinquished a child to the Mayor or to a licensed child-placing agency which has transferred the relinquishment to the Mayor under § 32-1007. (July 26, 1892, 27 Stat. 269, ch. 250, § 5; Mar. 19, 1906, 34 Stat. 73, ch. 960, § 8; Mar. 16, 1926, 44 Stat. 210, ch. 58, § 11; Jan. 12, 1942, 55 Stat. 883, ch. 649, § 3; 1973 Ed., § 3-117; Jan. 2, 1974, 87 Stat. 1060, Pub. L. 93-241, § 1(b).)

**Cross references.** — As to age of majority, see § 30-401.

**Section references.** — This section is referred to in § 3-115.

**Change in government.** — This section

originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Govern-

mental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commission. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia,

respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**Refusal to appoint guardian ad litem for infant adoptee in adoption proceeding was not error** where all of the essential facts concerning the child's welfare were presented. In *re* Female Infant, App. D.C., 237 A.2d 468 (1968).

**Cited in** *In re* C.A.P., App. D.C., 356 A.2d 335 (1976).

### § 3-118. Investigation of children; confidentiality of records; study of physical and mental conditions.

The antecedents, character, and condition of life of each child received by the Board shall be investigated as fully as possible, and the facts learned entered in permanent records, in which shall also be noted the subsequent history of each child, so far as it can be ascertained. Such records shall be confidential but may be made available in the discretion of the Board. Provision shall be made for study of the physical and mental conditions of children received for care in order that care for each child may be planned to meet his particular physical and mental needs. (July 26, 1892, 27 Stat. 269, ch. 250, § 6; Mar. 16, 1926, 44 Stat. 210, ch. 58, § 11; Jan. 12, 1942, 55 Stat. 883, ch. 649, § 4; 1973 Ed., § 3-118.)

**Cross references.** — As to age of majority, see § 30-401.

**Section references.** — This section is referred to in § 3-115.

**Board of Public Welfare abolished.** — See note to § 3-102.

### § 3-119. Commitments by Family Division of Superior Court; placement by Board.

The judges of the Family Division of the Superior Court of the District of Columbia are hereby authorized and empowered, at their discretion, to commit to the custody and care of the Board of Public Welfare of the District of Columbia children under 17 years of age who shall be convicted of petty crimes or misdemeanors which may be punishable with fine or imprisonment; and said Board of Public Welfare shall place, under contract, such children in such suitable homes, institutions, or training schools for the care of children as it may deem wise and proper. (Mar. 3, 1901, 31 Stat. 1095, ch. 847, § 1; Mar. 19, 1906, 34 Stat. 73, ch. 960, § 8; Mar. 16, 1926, 44 Stat. 210, ch. 58, § 11; July 29, 1970, 84 Stat. 577, Pub. L. 91-358, title I, § 159(c); 1973 Ed., § 3-120.)

**Cross references.** — As to commitment by Family Division of Superior Court for proceedings regarding delinquency, neglect, or need of supervision, see §§ 16-2301 to 16-2337.

**Board of Public Welfare abolished.** — See note to § 3-102.

**Agency's duty to provide services arises concurrently with transfer of legal custody.** In re J.J., App. D.C., 431 A.2d 587 (1981).

**Agency has exclusive supervisory responsibility once custody is transferred by Court.** — Once custody is transferred to the

agency, the Court relinquishes its authority to determine the appropriate measures needed to ensure rehabilitation. The agency has exclusive supervisory responsibility over the juvenile absent a fresh delinquency determination. In re J.J., App. D.C., 431 A.2d 587 (1981).

**Court without authority to order agency to pay for services for juvenile probationer.** — The Family Division of the Superior Court has no authority to order a District of Columbia agency to pay for services for a juvenile offender on probation. In re J.J., App. D.C., 431 A.2d 587 (1981).

## § 3-120. Commitment of children under 17 years of age.

No court shall commit a child under 17 years of age, charged with or convicted of a petty crime or misdemeanor punishable by a fine or imprisonment, to a jail, workhouse, or police station, but if such child be unable to give bail or pay a fine, it may be committed to the Board of Public Welfare temporarily or permanently, in the discretion of the court, and said Board shall make some suitable provision for said child outside the inclosure of any jail, workhouse, or police station, or said court may commit such child to the National Training School under the laws now providing for such commitment. (Mar. 3, 1901, 31 Stat. 1095, ch. 847, § 2; Mar. 16, 1926, 44 Stat. 210, ch. 58, § 11; 1973 Ed., § 3-121.)

**Cross references.** — As to commitment by Family Division of Superior Court for proceedings regarding delinquency, neglect, or need of supervision, see §§ 3-119 and 16-2301 to 16-2337. As to age of majority, see § 30-401. As to commitment of minors employed in violation of law, see § 36-519.

**References in text.** — Statutory provisions for the National Training School for Boys and the National Training School for Girls were formerly codified in Chapters 8 and 9 of Title 32, respectively. These provisions were omitted from codification as obsolete in the 1973 Edition of the D.C. Code. As regards the National Training School for Boys, the School and its functions were transferred to the Department

of Justice by Reorganization Plan No. 2 of 1939. The School was operated until May 15, 1968, when it was closed pursuant to an order of the Attorney General. As regards the National Training School for Girls, the Act of August 3, 1951, 62 Stat. 154, ch. 291, § 1, provided that no new commitments to the School should be made after August 3, 1951.

**Board of Public Welfare abolished.** — See note to § 3-102.

**Confinement of minor charged with felony.** — This section did not forbid the commitment to a jail, workhouse, or police station of any child under 17 years of age if he is charged with or convicted of a felony. *Peak v. Reed*, 24 F.2d 619 (D.C. Cir. 1928).

## § 3-121. Duties of Trustees of National Training School for Girls transferred.

The duties prior to March 16, 1926, imposed by law upon the Board of Trustees of the National Training School for Girls concerning the admission, care, parole, and discharge of inmates shall be vested in the Board. (Mar. 16, 1926, 44 Stat. 210, ch. 58, § 12; 1973 Ed., § 3-122.)



**References in text.** — Statutory provisions for the National Training School for Girls were formerly codified in D.C. Code, §§ 32-901 to 32-913. These provisions were omitted from codification as obsolete in the 1973 Edition of the D.C. Code in light of the Act of August 3,

1951, 62 Stat. 154, ch. 291, § 1, which provided that no new commitments to the School should be made after August 3, 1951.

**Board of Public Welfare abolished.** — See note to § 3-102.

## § 3-122. Annual budget; report of activities; recommendations; study of social and environmental conditions.

It shall be the duty of the Board to prepare and submit to the Mayor of the District of Columbia, in such manner as he shall require, an annual budget itemizing the appropriations necessary to the proper discharge of the duties imposed by law upon the Board and for the support and maintenance of the institutions under its management. The Board shall also submit to the Mayor an annual report of its activities and the work carried on under its direction, together with its recommendations for securing more efficient and humane care for all persons in need of public assistance. The Board shall study from time to time the social and environmental conditions of the District of Columbia and shall incorporate in its reports the results thereof and recommendations designed to further safeguard the interests and well-being of the children of the District of Columbia and to diminish and ameliorate poverty and disease and to lessen crime. Except in the placement of children in institutions under the public control, the Board shall when practicable place them in institutions or homes of the same religious faith as the parents; provided, that whenever the Board shall for any reason place the child with any organization, institution, or individual other than of the same religious faith as that of the parents of the child, the Board shall set forth the reason for such action in the record of the case. Inmates of public institutions shall be given the fullest opportunity for the practice of their religion. (Mar. 16, 1926, 44 Stat. 210, ch. 58, § 13; 1973 Ed., § 3-123.)

**Cross references.** — As to age of majority see § 30-401.

**Change in government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and

Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

**Board of Public Welfare abolished.** — See note to § 3-102.

**§ 3-123. Visitation of wards.**

A ward placed outside the District of Columbia and the States of Virginia and Maryland shall be visited not less than once a year by a voluntary agent or correspondent of the Board of Public Welfare. (Mar. 2, 1927, 44 Stat. 1323, ch. 271; 1973 Ed., § 3-124.)

**Board of Public Welfare abolished.** —  
See note to § 3-102.

**§ 3-124. Discharge from guardianship.**

The Board of Public Welfare shall have power, upon proper showing, in its discretion, to discharge from guardianship any child committed to its care. (Mar. 2, 1927, 44 Stat. 1323, ch. 271; 1973 Ed., § 3-125.)

**Board of Public Welfare abolished.** —  
See note to § 3-102.

**§ 3-125. Duties and responsibilities of Board.**

The Board of Public Welfare of the District of Columbia established by § 3-102, shall, in addition to the other duties and responsibilities imposed upon it by law, have the following duties and responsibilities:

(1) To investigate the circumstances affecting children handicapped by dependency, neglect or mental defect, or who may be in danger of becoming delinquent, and to provide such services for the protection and care of such children as will assist in conserving satisfactory home life;

(2) To safeguard the welfare of children born out of wedlock, by providing services for their mothers and fathers and in caring for and in obtaining support for such children;

(3) To assume responsibility for the care and support of dependent or neglected children under the age of 18 years needing public care away from their own homes, when such need has been determined by careful investigation and is requested by the parent or parents or any person or agency responsible for the care of such children;

(4) To make suitable provision for the reception and care of children in need of detention pending court action, or who are temporarily detained under court order, or who are temporarily homeless; and

(5) Upon proper showing, in its discretion, to discharge from custody or guardianship any child committed to its care. (Jan. 12, 1942, 55 Stat. 882, ch. 649, § 1; 1973 Ed., § 3-126; Oct. 1, 1976, D.C. Law 1-87, § 6, 23 DCR 2544.)

**Cross references.** — As to age of majority, see § 30-401.

**Legislative history of Law 1-87.** — Law 1-87, the "Anti-Sex Discriminatory Language Act of 1976," was introduced in Council and assigned Bill No. 1-36, which was referred to the Committee on the Judiciary and Criminal Law. The Bill was adopted on first and second

readings on June 15, 1976 and June 29, 1976, respectively. Signed by the Mayor on July 27, 1976, it was assigned Act No. 1-143 and transmitted to both Houses of Congress for its review.

**Board of Public Welfare abolished.** —  
See note to § 3-102.

**§ 3-126. Assisting child to leave institution without authority; concealing such child; duty of police.**

Any person who shall entice or attempt to entice, away from any home or institution, any child legally committed to the Board of Public Welfare and placed by said Board in such home or institution, or any person who shall assist or attempt to assist any such child to leave without permission such home or institution, knowing such child to be an inmate of such institution or to have been placed in such home, or any person who shall harbor, conceal, or aid in harboring or concealing any such child who shall be absent without leave from a home or institution in which he has been placed by the Board of Public Welfare, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall pay a fine of not less than \$10 nor more than \$100; and any policeman shall have power, and it is hereby made his duty, to take into custody any child, when in his power to do so, who shall be absent without leave from a home or institution in which he has been placed and return him thereto or to the Receiving Home. (Jan. 12, 1942, 55 Stat. 883, ch. 649, § 2; 1973 Ed., § 3-127.)

**Cross references.** — As to age of majority,  
see § 30-401.

**Board of Public Welfare abolished.** —  
See note to § 3-102.



## PUBLIC CARE SYSTEMS

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### *Subchapter XXI. Severability.*

- 3-221.1. Severability.

**Revision of chapter.** — D.C. Law 4-101 repealed former §§ 3-201 to 3-224 and enacted present §§ 3-201.1 to 3-221.1. Section 2101(a)(2) of D.C. Law 4-101 repealed D.C. Law 1-5, which had amended former § 3-217.

Section 2101(a)(7) of D.C. Law 4-101 repealed D.C. Law 2-10, which had amended former § 3-211. Former § 3-218 had been amended by D.C. Law 4-53 and D.C. Law 4-79.



*Subchapter I. Definitions.***§ 3-201.1. Definitions.**

For the purposes of this subchapter, the term:

(1) "AFDC" means the Aid to Families with Dependent Children established by subchapter II of this chapter.

(2) "Council" means the Council of the District of Columbia.

(3) "District" means the District of Columbia government.

(3A) "GAC" means the General Assistance for Children program established by § 3-205.5a.

(4) "GPA" means the General Public Assistance program established by subchapter II of this chapter.

(5) "Mayor" means the Mayor of the District of Columbia or the agents, agencies, officers, and employees designated by him or her to perform any function vested in them by this chapter.

(6) "Public assistance" means payment in or by money, medical care, remedial care, goods or services to, or for the benefit of, needy persons.

(7) "Recipient" means a person to whom or on whose behalf public assistance is granted.

(8) "State" means each of the states of the United States. The term "state" includes Puerto Rico, Guam, and the United States Virgin Islands. (Apr. 6, 1982, D.C. Law 4-101, § 101, 29 DCR 1060; Aug. 17, 1991, D.C. Law 9-19, title I, § 101(a), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-27, § 2(a), 38 DCR 4205; Feb. 5, 1994, D.C. Law 10-68, § 10(a), 40 DCR 6311.)

**Section references.** — This section is referred to in § 31-1571.

**Effect of amendments.** — D.C. Law 9-27 added (3A).

D.C. Law 10-68 redesignated (3a) as (3A) and made minor stylistic changes.

**Temporary amendments of section.** — Section 101(a) of D.C. Law 9-19 added (3A).

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 101(a) of the Omnibus Budget Support Emergency Act of 1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390).

For temporary amendment of section, see § 101(a) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 4-101.** — Law 4-101, the "District of Columbia Public Assistance Act of 1982," was introduced in Council and assigned Bill No. 4-369, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on January 12, 1982, and January 26, 1982, respectively. Signed by the Mayor on

February 22, 1982, it was assigned Act No. 4-159 and transmitted to both Houses of Congress for its review.

Many of the substantive changes contained in D.C. Law 4-101 regarding the Aid to Families with Dependent Children program are a reformulation of the changes made in D.C. Law 4-79, the Aid to Families with Dependent Children Federal Conformity Act of 1981. Law 4-79 was introduced in Council and assigned Bill No. 4-333, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 24, 1981, and December 15, 1981, respectively. Signed by the Mayor on December 21, 1981, it was assigned Act No. 4-133 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-19.** — See note to § 3-205.5a.

**Legislative history of Law 9-27.** — See note to § 3-205.5a.

**Legislative history of Law 10-68.** — Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the

Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

**Determination of needy individual entitled to public assistance.** — That public assistance shall be awarded to or on behalf of any needy individual means that the assistance is

to be given to any needy individual eligible under 1 of the 5 categories established by § 3-202, not that any and every needy individual is entitled to public assistance. *Staley v. District of Columbia Dep't of Human Resources*, App. D.C., 310 A.2d 842 (1973).

Cited in *Burt v. District of Columbia*, App. D.C., 525 A.2d 616 (1987).

## *Subchapter II. Establishment of Programs; Administration of Chapter.*

### § 3-202.1. Public assistance categories established.

The following categories of public assistance are established:

- (1) Aid to Families with Dependent Children;
- (2) General Assistance for Children;
- (3) General Public Assistance; and
- (4) Emergency Shelter Family Services. (Apr. 6, 1982, D.C. Law 4-101, § 201, 29 DCR 1060; Aug. 17, 1991, D.C. Law 9-19, title I, § 101(b), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-27, § 2(b), 38 DCR 4205.)

**Section references.** — This section is referred to in § 30-501.

**Effect of amendments.** — D.C. Law 9-27 rewrote the section.

**Temporary amendments of section.** — Section 101(b) of D.C. Law 9-19 rewrote the section.

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 101(b) of the Omnibus Budget Support Emergency Act of 1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390).

For temporary amendment of section, see § 101(b) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 9-19.** — See note to § 3-205.5a.

**Legislative history of Law 9-27.** — See note to § 3-205.5a.

**Determination of needy individual entitled to public assistance.** — That public assistance shall be awarded to or on behalf of any needy individual means that assistance is to be given to any needy individual eligible under 1 of the 5 categories established by this section, not that any and every needy individual is entitled to public assistance. *Staley v. District of Columbia Dep't of Human Resources*, App. D.C., 310 A.2d 842 (1973).

**Both need and deprivation must be shown when a child seeks to qualify for assistance payments.** *Trull v. District of Columbia Dep't of Pub. Welfare*, App. D.C., 268 A.2d 859 (1970).

**Payments denied to children.** — Children of a father, who was living at the home and who was able-bodied and employable, are not qualified to receive assistance payments as "dependent" children despite the father's failure and refusal to work and support the family. *Trull v. District of Columbia Dep't of Pub. Welfare*, App. D.C., 268 A.2d 859 (1970).

Cited in *Burt v. District of Columbia*, App. D.C., 525 A.2d 616 (1987).

### § 3-202.2. Administrative duties of Mayor.

(a) In accordance with rules adopted by the Council, pursuant to § 3-202.4, the Mayor shall administer this chapter.

(b) The Mayor shall:

(1) Provide for maximum cooperation with other agencies rendering services to maintain and strengthen family life and to help applicants for public assistance and recipients to attain self-support or self-care;

(2) Cooperate in all necessary respects with agencies of the United States government in the administration of this chapter, and accept any funds, goods, or services payable to the District for public assistance and for administering public assistance; and

(3) Enter into reciprocal agreements with any state relative to the provision of public assistance to residents and nonresidents. (Apr. 6, 1982, D.C. Law 4-101, § 202, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**District of Columbia Coordinating Committee on Early Intervention Services established.** — See Mayor's Order 88-183, August 3, 1988.

**Mayor's Committee on Persons With Disabilities established.** — See Mayor's Order 88-245, November 16, 1988.

**In general.** — Paragraph (b)(1) of this section is nothing more than a statutory exhortation to the mayor, clearly subject to the council's discretion in setting benefit levels and to available funding; the U.S. Code contains virtually identical language, and there is no fed-

eral requirement for up-to-date assessment of minimum needs. *Baugh v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 120 WLR 175 (Super. Ct. 1992).

**Application of windfall regulations.** — Windfall regulations concerning the computation of benefits involves an extraordinary happening such as over-payments, legacies, settlement of lawsuits, etc., and not earned income, and such regulations are not applicable where the applicants' voluntary actions result in a reduction of regular income. *Harris v. District of Columbia Dep't of Human Resources*, App. D.C., 304 A.2d 868 (1973).

### § 3-202.3. Mayor authorized to delegate functions.

The Mayor may delegate and subdelegate any function vested in him or her by this chapter to any agency, officer, or employee of the District. (Apr. 6, 1982, D.C. Law 4-101, § 203, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Amendment of Mayor's Order 86-26 dated February 6, 1986, Delegation of Au-**

**thority under the Public Assistance Act of 1982, D.C. Law 4-101.** — See Mayor's Orders 93-31, March 23, 1993; 93-219, December 1, 1993.

### § 3-202.4. Council to adopt rules.

The Council shall adopt rules by act for the implementation of this chapter. (Apr. 6, 1982, D.C. Law 4-101, § 204, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-202.2.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-202.5. Mayor to issue rules.

The Mayor shall, no later than January 1, 1986, and pursuant to subchapter I of Chapter 15 of Title 1, issue rules necessary to implement § 2 of the District of Columbia Public Assistance Act of 1982 Amendments Act of 1985. (Apr. 6, 1982, D.C. Law 4-101, § 205, as added Sept. 10, 1985, D.C. Law 6-35, § 2(a), 32 DCR 3778.)



**Legislative history of Law 6-35.** — Law 6-35, the "District of Columbia Public Assistance Act of 1982 Amendments Act of 1985," was introduced in Council and assigned Bill No. 6-97, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on May 28, 1985, and June 11, 1985, respectively. Signed by the Mayor on June 14, 1985, it was assigned Act No. 6-50 and transmitted to both Houses of Congress for its review.

**References in text.** — "Section 2 of the Dis-

trict of Columbia Public Assistance Act of 1982 Amendments Act of 1985," referred to at the end of the section, is § 2 of D.C. Law 6-35, which enacted this section and § 3-211.6, and amended §§ 3-205.5, 3-205.10, 3-205.11, 3-205.15, 3-205.25, 3-205.33, 3-205.50, 3-205.54, 3-205.55, 3-205.57, 3-205.59, 3-208.1, 3-210.9, 3-216.1 and 3-217.5, and repealed § 3-205.60.

**Delegation of authority pursuant to Law 6-35.** — See Mayor's Order 86-40, March 13, 1986.

### *Subchapter III. Crisis Management of Children.*

#### **§ 3-203.1. Definitions.**

For the purposes of this subchapter, the term:

(1) "Child" means any child who comes within the purview of the Department of Human Services either because such child is neglected as defined in § 16-2301(9) or whose custody has been voluntarily surrendered by the parent or guardian to the Mayor.

(2) "Crisis facility" shall mean any community-based residential type housing for dependent and neglected children.

(3) "Private institution" means any privately owned or operated institution that provides care and maintenance for neglected or dependent children, or both, on a contractual basis with the Mayor.

(4) "Public institution" shall mean Junior Village or any successor institution designed and used for such purpose. (Apr. 6, 1982, D.C. Law 4-101, § 301, 29 DCR 1060; Mar. 14, 1985, D.C. Law 5-159, § 17(a), 32 DCR 30.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 5-159.** — Law 5-159, the "End of Session Technical Amendments Act of 1984," was introduced in Council and assigned Bill No. 5-540, which was referred to the Committee of the Whole. The Bill

was adopted on first and second readings on November 20, 1984, and December 4, 1984, respectively. Signed by the Mayor on December 10, 1984, it was assigned Act No. 5-224 and transmitted to both Houses of Congress for its review.

#### **§ 3-203.2. Assignment to public institution by Department.**

No child 6 years of age or younger shall be assigned by the Department to any public institution, except that any such child who requires medical treatment may be assigned to a hospital or other medical facility for such treatment; provided, that medical treatment shall not be construed to include emotional disorders of less than an acute nature. In furtherance thereof, the Mayor shall develop an overall plan of child care and emergency child care so as to eliminate the necessity of a public institution for the care of such children other than for medical reasons. No child shall remain in any crisis facility for longer than 15 days. (Apr. 6, 1982, D.C. Law 4-101, § 302, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### **§ 3-203.3. Maintenance in public institution by Mayor.**

No child 6 years of age or younger shall be maintained by the Mayor in any public institution except for medical treatment. (Apr. 6, 1982, D.C. Law 4-101, § 303, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### **§ 3-203.4. Assignment to public institution by Mayor.**

The Mayor shall not assign any child regardless of age to any public institution except that any such child who requires medical treatment may be assigned to a hospital or other medical facility for such treatment or unless ordered to such rehabilitative institution as a court of competent jurisdiction may direct. (Apr. 6, 1982, D.C. Law 4-101, § 304, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

## ***Subchapter IV. Old Age Assistance; Aid to the Blind; Aid to the Disabled; Medicaid Program Administration.***

### **§ 3-204.1. Monthly amount of income disregarded.**

The Mayor, in determining the need for Old Age Assistance, Aid to the Permanently and Totally Disabled, Aid to the Blind, and GPA, shall disregard \$7.50 per month of income from any source of persons applying for or receiving such aid. (Apr. 6, 1982, D.C. Law 4-101, § 401, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### **§ 3-204.2. Amount of federal payment disregarded.**

The Mayor, in determining the need for Old Age Assistance, and Aid to the Permanently and Totally Disabled applicants or recipients, shall disregard \$85 and one-half of the excess over \$85 of the first \$150 paid to beneficiaries under the Community Economic Development Act of 1981 (42 U.S.C. § 9801 et seq.) and the Community Services Block Grant Act (42 U.S.C. § 9901 et seq.) for a period not to exceed 12 months. Any amount in excess of the disregarded amounts must be considered as a resource to the assistance unit to the extent that it is actually available to the unit. Any payment made to a spouse or parent is assumed to be available for family support. (Apr. 6, 1982, D.C. Law 4-101, § 402, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-204.3.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**References in text.** — “Titles I and II of the Economic Opportunity Act of 1964 (42 U.S.C. § 2701 et seq.),” formerly referred to in the

first sentence, was repealed by the Act of August 13, 1981, 95 Stat. 519, Pub. L. 97-35, § 683(a). Similar provisions are now codified as the Community Economic Development Act of 1981, 42 U.S.C. § 9801 et seq., and the Community Services Block Grant Act, 42 U.S.C. § 9901 et seq.

### § 3-204.3. Ability of responsible relatives to contribute.

The Mayor, in determining the ability of legally responsible relatives to contribute to adult public assistance recipients, shall apply the policy in § 3-204.2 in determining net income when the income is from payments or allowances received from programs under the Community Economic Development Act of 1981 (42 U.S.C. § 9801 et seq.) and the Community Services Block Grant Act (42 U.S.C. § 9901 et seq.). (Apr. 6, 1982, D.C. Law 4-101, § 403, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**References in text.** — “Title I or II of the Economic Opportunity Act of 1964 (42 U.S.C. § 2701 et seq.),” formerly referred to in this section, has been repealed by the Act of August

13, 1981, 95 Stat. 519, Pub. L. 97-35, § 683(a). Similar provisions are now codified as the Community Economic Development Act of 1981, 42 U.S.C. § 9801 et seq., and the Community Services Block Grant Act, 42 U.S.C. § 9901 et seq.

### § 3-204.4. Amount of training incentive payment disregarded.

In determining the need of adult recipients who have enrolled in a training program under the Manpower Development and Training Act, the Mayor shall disregard the amount of the training incentive payment up to \$20 a week and an expense allowance up to \$10 a week. (Apr. 6, 1982, D.C. Law 4-101, § 404, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**References in text.** — The “Manpower Development and Training Act,” referred to in this section, is the Manpower Development and Training Act of 1962, which was codified

as Chapter 30 of Title 42, United States Code. Section 614 of the Act of December 28, 1973, Pub. L. 93-203, provided in part that the repeal of Chapter 30 was effective with respect to fiscal years after June 30, 1974.

### § 3-204.5. Medicaid benefits.

The District state plan required under Title XIX of the Social Security Amendments of 1965 (42 U.S.C. § 1396 et seq.) shall provide that all persons in the following categories are eligible for full Medicaid benefits:

- (1) All persons receiving Supplemental Security Income benefits;
- (2) All persons categorically related to the Supplemental Security Income (“SSI”) program (that is, aged, blind, or permanently disabled) and receiving benefits under the Old Age and Survivors Disability Insurance (“OASDI”) program and who were eligible for SSI benefits (but for OASDI) cost-of-living increases received since April, 1977; and



(3) All persons categorically related to the SSI program (that is, aged, blind, or permanently disabled) whose monthly countable income, regardless of source, is equal to or less than the combined maximum monthly payment of SSI plus the District supplement for the person having no other income or resources. (Apr. 6, 1982, D.C. Law 4-101, § 405, 29 DCR 1060.)

**Cross references.** — As to notice of health care providers of known or suspected third-party liability, see § 3-506. As to Medicaid provider fraud prevention, see Chapter 7 of Title 3.

**Section references.** — This section is referred to in § 1-359.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Medicaid Spousal Maintenance Needs**

**Allowance Increase.** — Section 2 of D.C. Law 9-70 provided that for purposes of protecting the income of the community spouse of a Medicaid beneficiary who is institutionalized, the Mayor is directed to set the minimum monthly maintenance needs allowance at the maximum level permitted under 42 U.S.C. § 1396r-5, and to amend the District of Columbia Medicaid State Plan accordingly.

## § 3-204.6. District supplement for Supplemental Security Income recipients.

(a) Except as provided in subsection (b) of this section, each District of Columbia resident receiving a Supplemental Security Income payment and each District of Columbia resident who would, but for his or her income, be eligible to receive a Supplemental Security Income payment, shall receive an additional \$15 per month supplemental payment from District revenues.

(b) No District of Columbia resident shall be eligible for the \$15 monthly supplement who, throughout any month, is:

(1) Living in a community residence facility and therefore eligible to receive a District supplemental payment under § 3-205.49; or

(2) Repealed.

(c) The Mayor may enter into an agreement with the Secretary of the Department of Health and Human Services for the federal administration of this supplement payment. (Apr. 6, 1982, D.C. Law 4-101, § 406, as added Sept. 14, 1982, D.C. Law 4-146, § 3, 29 DCR 3151; Mar. 10, 1983, D.C. Law 4-208, § 2(a), 30 DCR 202; Mar. 14, 1985, D.C. Law 5-159, § 17(b), 32 DCR 30; Apr. 30, 1988, D.C. Law 7-104, § 29, 35 DCR 147.)

**Legislative history of Law 4-146.** — Law 4-146, the "Abandoned or Unauthorized Vehicle Removal and District of Columbia Public Assistance Act Amendment Act of 1982," was introduced in Council and assigned Bill No. 4-238. The Bill was adopted on first and second readings on June 8, 1982, and June 22, 1982, respectively. Signed by the Mayor on July 12, 1982, it was assigned Act No. 4-214 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 4-208.** — Law 4-208, the "District of Columbia Public Assistance Act of 1982 Personal Needs Allowance Amendments Act of 1982," was introduced in Council and assigned Bill No. 4-515, which was referred to the Committee on Human Services.

The Bill was adopted on first and second readings on November 16, 1982, and December 14, 1982, respectively. Signed by the Mayor on December 28, 1982, it was assigned Act No. 4-292 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 5-159.** — See note to § 3-203.1

**Legislative history of Law 7-104.** — Law 7-104, the "Technical Amendments Act of 1987," was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987 and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

*Subchapter V. Public Assistance Programs.*

**§ 3-205.1. Eligibility for public assistance.**

Public assistance shall be awarded to or on behalf of any needy individual who is within 1 of the categories of public assistance established by subchapter II of this chapter. (Apr. 6, 1982, D.C. Law 4-101, § 501, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-206.1.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Entitlement to public assistance.** — Sec-

tion 10 of D.C. Law 9-271 provided that notwithstanding subchapter V of Chapter 2 of Title 3, medical and geriatric parolees shall be entitled to general public assistance pending their application for eligibility.

**§ 3-205.2. Residency requirement.**

The Mayor in determining eligibility for a person to receive AFDC, GAC, GPA, and Emergency Shelter Family Services benefits shall not impose, as a condition of eligibility, any residence requirement which excludes any individual who resides in the District. (Apr. 6, 1982, D.C. Law 4-101, § 502, 29 DCR 1060; Aug. 17, 1991, D.C. Law 9-19, title I, § 101(c), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-27, § 2(c), 38 DCR 4205; Feb. 5, 1994, D.C. Law 10-68, § 10(b), 40 DCR 6311.)

**Effect of amendments.** — D.C. Law 9-27 substituted "AFDC, GAC, GPA, and Emergency Shelter Family Services benefits" for "Old Age Assistance, Aid to the Blind, Aid to the Permanently and Totally Disabled, AFDC, or GPA, which includes Temporary Assistance for Families of Unemployed Parents, Emergency Family Shelter Service, and Emergency Assistance Service".

D.C. Law 10-68 inserted "a" preceding "condition."

**Temporary amendments of section.** — Section 101(c) of D.C. Law 9-19 substituted "AFDC, GAC, GPA, and Emergency Shelter Family Services benefits" for "Old Age Assistance, Aid to the Blind, Aid to the Permanently and Totally Disabled, AFDC, or GPA, which includes Temporary Assistance for Families of Unemployed Parents, Emergency Family Shelter Service, and Emergency Assistance Service".

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 101(c) of the Omnibus Budget Support Emergency Act of 1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390).

For temporary amendment of section, see § 101(c) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 9-19.** — See note to § 3-205.5a.

**Legislative history of Law 9-27.** — See note to § 3-205.5a.

**Legislative history of Law 10-68.** — See note to § 3-201.1.

**§ 3-205.3. Determination of residency.**

(a) A resident of the District of Columbia is one who is living in the District of Columbia voluntarily and not for a temporary purpose; that is, one with no intention of presently removing himself or herself therefrom. A child is residing in the District if he or she is making his or her home in the District.

(b) Temporary absence from the District, with subsequent returns to the District, or intent to return when the purposes of the absence have been accomplished, shall not interrupt continuity of residence.

(c) Residence as defined for eligibility purposes shall not depend upon the reason for which the individual entered the District, except insofar as it may bear on whether he is there for a temporary purpose. (Apr. 6, 1982, D.C. Law 4-101, § 503, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.4. Relocation of recipients to another jurisdiction.

Recipients of assistance from the District who move to another jurisdiction with intent to remain in that state shall be asked to make application for assistance in that state immediately. Such recipients may continue to receive assistance from the District for a period of time not to exceed 2 months, to provide time for the state to process the application. (Apr. 6, 1982, D.C. Law 4-101, § 504, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.5. Definitions.

For the purpose of §§ 3-205.6 through 3-205.13, the term:

(1) "Earned income" means income in cash or in kind produced as a result of the performance of services currently rendered by an individual. In the case of an applicant or recipient of AFDC, the term "earned income" shall not include the amount of earned income credit payments actually received.

(2) "Family" means the total applicant or assistance unit.

(3) "Gross income" means total earned income before any deductions required by law.

(4) "Income" means the money periodically received by an individual for labor or service currently rendered, or from property, trusts, operations, or statutory benefits.

(5) "Mandatory deductions" means those deductions required by law or as a condition of employment. (Apr. 6, 1982, D.C. Law 4-101, § 505, 29 DCR 1060; Mar. 14, 1985, D.C. Law 5-150, § 2(a), 31 DCR 6425; Sept. 10, 1985, D.C. Law 6-35, § 2(b), 32 DCR 3778; Feb 22, 1990, D.C. Law 8-67, § 2(a), 36 DCR 7726; Mar. 15, 1990, D.C. Law 8-86, § 2(a), 37 DCR 48.)

**Cross references.** — As to the Emergency Shelter and Support Services Program, see § 3-602.1.

**Section references.** — This section is referred to in §§ 3-205.5a and 3-205.50.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 5-150.** — Law 5-150, the "District of Columbia Public Assis-

tance Act of 1982 Temporary Amendments Act of 1984," was introduced in Council and assigned Bill No. 5-530, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on October 23, 1984, and November 7, 1984, respectively. Signed by the Mayor on November 29, 1984, it was assigned Act No. 5-214 and



transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-35.** — See note to § 3-202.5.

**Legislative history of Law 8-67.** — Law 8-67, the "District of Columbia Public Assistance Act of 1982 Conforming Amendments Amendment Temporary Act of 1989," was introduced in Council and assigned Bill No. 8-390, which was retained by Council. The Bill was adopted on first and second readings on September 26, 1989, and October 10, 1989, respectively. Signed by the Mayor on October 27, 1989, it was assigned Act No. 8-102 and trans-

mitted to both Houses of Congress for its review.

**Legislative history of Law 8-86.** — Law 8-86, the "District of Columbia Public Assistance Act of 1982 Conforming Amendments Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-391, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 21, 1989, and December 5, 1989, respectively. Signed by the Mayor on December 21, 1989, it was assigned Act No. 8-136 and transmitted to both Houses of Congress for its review.

### § 3-205.5a. General Assistance for Children program.

(a) A General Assistance for Children program is established to provide the same benefits for a child as the child would receive under AFDC if the child had a family relationship with a caretaker that is required in the AFDC program.

(b) In order to be eligible for GAC assistance benefits an applicant must pursue all available federal benefits prior to approval of GAC benefits.

(c) The following provisions of this subchapter shall apply to determinations of eligibility for and payments of GAC, except that the income and assets of the caretaker shall not be included unless the caretaker requests inclusion in the assistance unit as an essential person for which the income and assets of the caretaker shall be considered as specified in § 3-205.10: §§ 3-205.5, 3-205.10, 3-205.11, 3-205.13, 3-205.15, 3-205.16, 3-205.17, 3-205.18, 3-205.19, 3-205.20, 3-205.21, 3-205.22, 3-205.23, 3-205.24, 3-205.25, 3-205.26, 3-205.27, 3-205.29, 3-205.30, 3-205.31, 3-205.33(b), 3-205.36, 3-205.37, 3-205.38, 3-205.39, 3-205.40, 3-205.44, 3-205.48, 3-205.50, 3-205.51, and 3-205.52.

(d) The first \$50 of current child support received on behalf of a GAC program child shall be disregarded.

(e) The earnings of a GAC program child who is a full-time student and who is employed full-time or part-time, or who is a part-time student and who is employed part-time, shall be disregarded.

(f) The following amounts shall be disregarded from the gross monthly earnings of a GAC program child who is a part-time student and employed full-time: The first \$7.50, mandatory payroll deductions, and the cost of producing income, as determined by rule by the Mayor.

(g) If the source of income is other than that provided for in subsection (d), (e), or (f) of this section, no more than \$7.50 shall be disregarded.

(h) The Mayor shall issue rules to implement this section in accordance with subchapter I of Chapter 15 of Title 1. (Apr. 6, 1982, D.C. Law 4-101, § 505a, as added Aug. 17, 1991, D.C. Law 9-19, title I, § 101(d), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-27, § 2(d), 38 DCR 4205; Feb. 5, 1994, D.C. Law 10-68, § 10(c), 40 DCR 6311.)

**Section references.** — This section is referred to in § 3-201.1.

**Effect of amendments.** — D.C. Law 9-27 added this section.

D.C. Law 10-68 inserted "3.205.48" in (c); inserted "of this section" in (g); and made minor internal reference changes and punctuation changes.

**Temporary addition of section.** — Section 101(d) of D.C. Law 9-19 added a § 3-205.5a.

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 101(d) of the Omnibus Budget Support Emergency Act of 1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390).

For temporary amendment of section, see § 101(d) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 9-19.** — Law 9-19, the "Omnibus Budget Support Temporary Act of 1991," was introduced in Council and assigned Bill No. 9-205. The Bill was adopted on first and second readings on May 7, 1991, and June 4, 1991, respectively. Signed by the Mayor on June 21, 1991, it was assigned Act No. 9-43 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-27.** — Law 9-27, the "Public Assistance Act of 1982 Budget Conformity Amendment of 1991," was introduced in Council and assigned Bill No. 9-159, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 4, 1991, and June 18, 1991, respectively. Signed by the Mayor on July 2, 1991, it was assigned Act No. 9-54 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 10-68.** — See note to § 3-201.1.

## § 3-205.6. Old Age Assistance and Aid to the Permanently and Totally Disabled need determination.

In determining the need of an Old Age Assistance ("OAA") or an Aid to the Permanently and Totally Disabled ("APTD") applicant or recipient and the need of his dependents:

- (1) Disregard the first \$7.50 each month of income from any source, then
- (2) When the applicant or recipient has income from earnings, in addition to the above, each month from the first \$80 earned, disregard the first \$20 and one half of the next \$60 of gross earnings. Then subtract the mandatory deductions to determine how much is to be considered an available resource.
- (3) When the income is from OASDI or Railroad Retirement Benefits, disregard an additional \$4 each month. (Apr. 6, 1982, D.C. Law 4-101, § 506, 29 DCR 1060.)

**Section references.** — This section is referred to in §§ 3-205.5 and 3-205.50.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

## § 3-205.7. Aid to the Blind need determination.

In determining the need of an Aid to the Blind ("AB") applicant or recipient and his dependents:

- (1) Disregard the first \$7.50 each month of income from any source, then
- (2) Disregard the first \$85 and one half of the excess above \$85 of gross monthly income earned by the recipient. Then subtract the mandatory deductions to determine how much is to be considered an available resource.
- (3) When the income is from OASDI or Railroad Retirement Benefits, disregard an additional \$4 each month. (Apr. 6, 1982, D.C. Law 4-101, § 507, 29 DCR 1060.)

**Section references.** — This section is referred to in §§ 3-205.5 and 3-205.50.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.8. GPA need determination.

In determining the need of a GPA applicant or recipient, disregard no more than \$7.50 of income from any source. (Apr. 6, 1982, D.C. Law 4-101, § 508, 29 DCR 1060.)

**Section references.** — This section is referred to in §§ 3-205.5 and 3-205.50.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.9. AB and ATD self-supporting plans.

(a) When an AB or ATD recipient has a plan for becoming self-supporting, his or her income from any source shall be disregarded as a resource to meet his or her current requirements or the requirement of any other individual, for a period up to 36 months, if necessary for the success of the plan, provided the following criteria are met:

(1) The plan is sound; i.e., it offers a means of livelihood for which there is a demand in the labor market, can be carried out within 12 or at the maximum of 36 months, is approved as feasible by the Mayor, and by the service agency, such as Vocational Rehabilitation Administration, helping the recipient develop the plan;

(2) The use of the income is necessary to the achievement of the plan; and

(3) An agreement to use the income for the purpose of the plan is signed by the recipient and a representative of the Mayor.

(b) If the plan is abandoned at any time before the recipient becomes self-supporting, any income saved toward achieving the plan becomes an immediate available resource to meet the needs of the assistance unit to the extent that it would have been a resource on a monthly basis. (Apr. 6, 1982, D.C. Law 4-101, § 509, 29 DCR 1060.)

**Section references.** — This section is referred to in §§ 3-205.5 and 3-205.50.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.10. AFDC income eligibility standards.

(a) When the gross family income of persons applying for, or receiving, AFDC exceeds 185% of the standard of assistance for a family of the same composition, the family is not eligible for assistance. The disregard for step-parent's income under § 3-205.22, and the alien sponsor's disregards under 45 CFR 233.51 must be applied before making the determination under this section. Payments to correct underpayments to AFDC recipients is not considered as income or as a resource either in the month the payment is made or in the following month.

(b) If the gross income, after application of exclusions and disregards permitted under subsection (a) of this section are applied, is 185% or less of the standard of need, eligibility and benefit level shall be calculated in accordance



with §§ 3-205.14, 3-205.50, and 3-217.5. (Apr. 6, 1982, D.C. Law 4-101, § 510, 29 DCR 1060; Mar. 14, 1985, D.C. Law 5-150, § 2(b), 31 DCR 6425; Sept. 10, 1985, D.C. Law 6-35, § 2(c), 32 DCR 3778.)

**Cross references.** — As to prompt payment of disregarded sum, see § 3-211.6.

**Section references.** — This section is referred to in §§ 3-205.5, 3-205.5a and 3-205.50.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 5-150.** — See note to § 3-205.5.

**Legislative history of Law 6-35.** — See note to § 3-202.5.

**Cited in** Abdulshakur v. District of Columbia, App. D.C., 589 A.2d 1258 (1991); Baugh v. District of Columbia Dep't of Consumer & Regulatory Affairs, 120 WLR 175 (Super. Ct. 1992).

## § 3-205.11. AFDC need determination.

(a) In determining the need of families who are applying for or receiving AFDC:

(1) Deduct the first \$90 of total gross earned income of each individual in the assistance unit. If the individual is self-employed, work expenses directly related to producing the goods or services, and without which the goods or services could not be produced, shall be excluded from the gross earned income total;

(2) Deduct the cost of care of each dependent child, or care of an incapacitated adult living in the same home and receiving AFDC, up to a maximum of \$175 per month per child 2 years of age or over or incapacitated adult, or up to a maximum of \$200 per month per child for a child under 2 years of age;

(3) For initial applicants, determine whether the monthly income, after disregards allowed under paragraph (1) or (2) of this section, exceeds the standard of assistance. If so, the family is ineligible for assistance;

(4) Disregard all of the monthly gross earned income of each child receiving AFDC if the child is a full-time student, or is a part-time student provided he is not employed full time. A part-time student must have a school schedule that is equal to at least one half of a full-time curriculum;

(5)(A) For individuals found otherwise eligible to receive assistance or who have received assistance in 1 of the 4 months prior to the month of application, disregard from the individual's earned income \$30 plus one-third of his or her earned income. The \$30 plus one-third disregard for individuals found otherwise eligible will be applied before the disregards specified in paragraph (2) of this subsection and after the disregard specified in paragraph (1) of this subsection. After the \$30 plus one-third disregard has been applied to an individual's gross earned income for 4 consecutive months (any month for which the unit loses this disregard because of a provision in paragraph (6) of this section shall be considered as 1 of those months), a \$30 disregard shall be applied for a period of 8 additional consecutive calendar months. This 8-month period begins with the month following the fourth consecutive month in which the \$30 plus one-third disregard was applied, and ends with the eighth consecutive month regardless of whether the \$30 disregard is actually applied. Thereafter, the disregards are not available until 12 consecutive months have passed during which the individual is not a recipient of AFDC.

(A-1)

The resulting income figure is considered in determining the grant to the assistance unit. The \$30 disregard for the 8-month period applies only to an AFDC recipient who has not already received the \$30 plus one-third disregard for 4 consecutive months prior to October 1, 1984 (unless he or she has been ineligible for AFDC for 12 consecutive months);

(B) The District of Columbia exercises the option provided by § 402 (a) (37) of the Social Security Act (42 U.S.C. § 602 (a) (37)), to extend the 9-month period of Medicaid coverage for an additional period of 6 months for assistance units that would be eligible during this additional period to receive AFDC if the \$30 plus one-third or the \$30 disregards were applied to the assistance unit's earned income;

(5A) Disregard any federal earned income tax credit received;

(6) Income earned by any member of the assistance unit shall not be disregarded for any month in which the Department determines that such member:

(A) Within 30 days preceding such month, without good cause (as specified in the state plan), terminated his or her employment, reduced his or her gross earned income, or refused a bona fide offer of employment;

(B) Voluntarily requested assistance be terminated for the sole purpose of avoiding receiving the \$30 plus one-third disregard for 4 consecutive months;

(C) Without good cause, failed to file the monthly report required for that month on time;

(D) Failed to report without good cause earnings affecting eligibility within 10 days of receipt of the earnings; and

(7) Disregard up to the first \$50 received by the assistance unit that represents a current monthly support obligation or a voluntary support payment from an absent parent or spouse.

(b) The income and assets of a parent living in the same household as a dependent child, but not included in the assistance unit because the parent is not eligible for AFDC, shall be considered available to the assistance unit, except that the disregards in paragraphs (1) and (2) of subsection (a) of this section shall apply. The income of a stepparent shall be considered available to the assistance unit as provided in § 3-205.22. In the case of a dependent child whose parent or legal guardian is an individual age 18 or under, the income of this individual's own parent(s) or legal guardian(s) living in the same household as the individual and his or her dependent child shall be considered available to the assistance unit to the same extent as the income of a stepparent under § 3-205.22(b)(2). In applying the disregards under § 3-205.22(b)(2) to an individual's parent(s) or legal guardian(s), each employed parent or legal guardian shall receive the benefit of the work expense disregard in § 3-205.22(b)(2)(A). (Apr. 6, 1982, D.C. Law 4-101, § 511, 29 DCR 1060; Mar. 14, 1985, D.C. Law 5-150, § 2(c), 31 DCR 6425; Sept. 10, 1985, D.C. Law 6-35, § 2(d), 32 DCR 3778; Feb. 22, 1990, D.C. Law 8-67, § 2(b), 36 DCR 7726; Mar. 15, 1990, D.C. Law 8-86, § 2(b), 37 DCR 48.)

**Section references.** — This section is referred to in §§ 3-205.5, 3-205.5a, 3-205.50 and 3-211.6.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 5-150.** — See note to § 3-205.5.

**Legislative history of Law 6-35.** — See note to § 3-202.5.

**Legislative history of Law 8-67.** — See note to § 3-205.5.

**Legislative history of Law 8-86.** — See note to § 3-205.5.

Cited in *Abdulshakur v. District of Columbia*, App. D.C., 589 A.2d 1258 (1991).

## § 3-205.12. Food stamp coupon allotment disregarded.

For all categories of assistance disregard the value of the coupon allotment under the Food Stamp Act of 1964 (7 U.S.C. § 2011 et seq.) in excess of the amount paid for the coupons. (Apr. 6, 1982, D.C. Law 4-101, § 512, 29 DCR 1060.)

**Section references.** — This section is referred to in §§ 3-205.5 and 3-205.50.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

## § 3-205.13. Enumerated income disregarded.

For all categories of assistance except GPA, the following income will be disregarded:

(1) Any highway relocation assistance paid under the Federal-Aid Highway Act of 1968 (23 U.S.C. § 101 et seq.);

(2) Any additional relocation assistance paid under § 202 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4622);

(3) Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commissioner of Education or by the University of the District of Columbia;

(4) Any out-of-pocket expenses reimbursed to recipients serving as volunteers in any organized program shall not be considered as available income in determining the needs of the recipient or the assistance unit. Out-of-pocket expenses may include carfare, cost of lunch, cost of babysitting, and day care;

(5) Financial aid given on a continuing basis by another agency shall not be considered as income in determining the amount of the public assistance payment when the following conditions are met:

(A) The aid is to meet the cost of goods and services that are not included in the Social Service Administration ("SSA") standard for requirements; or

(B) The aid is to compensate for any SSA administrative payment reduction; and

(C) The aid is given by an agency or organization which has a different purpose from that of the SSA such as vocational rehabilitation or training; and

(D) The agency has signed a complementary program relationship with the SSA; and

(6) Any other federal benefits currently excluded by federal law, regulation, or policy directive from countable income for purposes of the AFDC



program. (Apr. 6, 1982, D.C. Law 4-101, § 513, 29 DCR 1060; Feb. 18, 1988, D.C. Law 7-74, § 3, 34 DCR 7946.)

**Section references.** — This section is referred to in §§ 3-205.5 and 3-205.5a.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 7-74.** — Law 7-74, the "Tuition Grant for Parents, Caretaker Relatives, and Legal Guardians Eligible for AFDC Benefits Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-58, which was referred to the Committee on Education and Libraries. The Bill was adopted on first and second readings on October 27, 1987 and November 10, 1987, respectively. Signed by the Mayor on November 24,

1987, it was assigned Act No. 7-108 and transmitted to both Houses of Congress for its review.

**Living expenses received as General Public Assistance reduced by receipt of federal educational assistance.** — Since paragraph (3) of this section does not apply to General Public Assistance contributions, living expenses received as GPA were to be reduced as a result of federal educational assistance received under the category of room and board pursuant to § 3-205.29. *Cruz v. District of Columbia Dep't of Human Servs.*, App. D.C., 479 A.2d 333 (1984).

### § 3-205.14. Determination of GPA need standard.

For applicants for or recipients of GPA, the Mayor shall, in determining need, consider only net income that is regularly available to the assistance unit. (Apr. 6, 1982, D.C. Law 4-101, § 514, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.10.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.15. Standards for inclusion in AFDC assistance unit.

An assistance unit is composed of each person whose needs, income, and assets are combined in determining eligibility for AFDC and the amount of assistance payable.

(1) An application on behalf of a dependent child shall include in the AFDC assistance unit the following individuals, if living in the same household as the dependent child and otherwise eligible:

(A) The parent(s) of a dependent child;

(B) All blood-related and adopted brothers and sisters of the dependent child who are themselves dependent children under age 18 or age 18 and expected to complete high school before reaching age 19. The Mayor shall determine the meaning of the term "full-time student", shall determine which vocational or technical training courses are equivalent to the level of secondary school, and shall determine which factors will be considered in deciding whether an individual may reasonably be expected to complete the program of study or training before reaching age 19;

(C) Individuals age 18 or older but under 21 regularly attending a school, college, or university, or in the equivalent level of vocational or technical training designed to fit him or her for gainful employment, as determined by the Mayor, unless that individual is the parent of, and living with, an eligible child, in which case he or she shall be considered a caretaker relative of a separate assistance unit. An individual may be considered a student regularly attending a school or training course:

(i) If he or she is enrolled in and physically attending a full-time program of study or training leading to a certificate, diploma, or degree;

(ii) If he or she is enrolled in and physically attending at least half-time a program of study or training leading to a certificate, diploma, or degree and is regularly employed or available for and actively seeking employment; or

(iii) If he or she is enrolled in and physically attending at least half-time a program of study or training leading to a certificate, diploma, or degree and is precluded from full-time attendance or part-time employment because of a verified physical handicap.

(2) An application on behalf of a dependent child may include in the AFDC assistance unit each of the following individuals, provided that the individual requests to be included, meets each eligibility requirement, and lives in the same household as the dependent child:

(A) A step-sibling of the dependent child;

(B) A caretaker relative other than a parent provided a parent is not in the home. The term "caretaker relative" means:

(i) Any blood relative, including those of halfblood and first cousins, nephews, or nieces, and persons of preceding generations as denoted by prefixes of grand-, great-, or great-great-;

(ii) A stepparent or step-sibling;

(iii) A relative by adoption; or

(iv) Spouses of any persons listed in this subparagraph even after the marriage is terminated by death or divorce;

(C) The incapacitated spouse of the parent; or

(D) A person necessary for the maintenance of the household.

(3) Individuals who are ineligible to receive AFDC and who shall be excluded from the AFDC assistance unit during the period of ineligibility include:

(A) Parent(s) and sibling(s) who receive SSI benefits;

(B) Parent(s) and sibling(s) who are aliens and are ineligible for AFDC because they have been sponsored by an agency or organization or because of the application of sponsor-to-alien deeming provisions in accordance with 42 U.S.C. § 615;

(C) Parent(s) and sibling(s) who are aliens and are ineligible for AFDC because they do not meet the citizenship and alienage requirements of 42 U.S.C. § 602(a)(33);

(D) Parent(s) and sibling(s) who are ineligible for AFDC as the result of the imposition of a sanction; and

(E) Parent(s) and sibling(s) who are ineligible for AFDC due to receipt of lump-sum income. (Apr. 6, 1982, D.C. Law 4-101, § 515, 29 DCR 1060; Mar. 14, 1985, D.C. Law 5-150, § 2(d), 31 DCR 6425; Sept. 10, 1985, D.C. Law 6-35, § 2(e), 32 DCR 3778.)

**Section references.** — This section is referred to in §§ 3-205.5a and 31-1571.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 5-150.** — See note to § 3-205.5.

**Legislative history of Law 6-35.** — See note to § 3-202.5.

**§ 3-205.16. Contribution guidelines for nonassistance unit children.**

The Mayor shall use the following guidelines in counseling children not included in the assistance unit as to the amount they may contribute toward the maintenance of their home: A suggested contribution to the family of  $\frac{1}{3}$  of any monthly income remaining after there have been deducted from the child's gross income:

- (1) Earnings that can legally be disregarded;
- (2) \$80 for his or her own requirements; and
- (3) \$50 for each of his or her own dependents. (Apr. 6, 1982, D.C. Law 4-101, § 516, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.5a.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-205.17. Definitions.**

For the purposes of §§ 3-205.18 through 3-205.25, the term:

(1) "Continued absence from the home" means absence of a parent from the home by reason of: (A) Desertion or abandonment; (B) divorce or legal separation; (C) imprisonment; or (D) voluntary separation involving a dissociation of marital and family relationships. The term "continued absence from the home" shall not include absence from the home of a parent: (A) Which results from separate living arrangements made by a couple for the purpose of establishing eligibility for assistance; (B) who has left home for employment elsewhere and who is meeting the needs of his or her family; or (C) whose absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States.

(2) "Parent" means a child's natural or adoptive parent.

(3) "Parent who is the principal earner" shall be defined in accordance with 45 CFR 233.100(a)(3)(vi)(A).

(4) "Stepparent" means a person who is living in the home of the children for whom AFDC is requested and who is legally married to the natural or adoptive parent of the children. (Apr. 16, 1982, D.C. Law 4-101, § 517, 29 DCR 1060; Mar. 14, 1984, D.C. Law 5-53, § 2(a), 30 DCR 6278.)

**Section references.** — This section is referred to in § 3-205.5a.

**Legislative history of Law 5-53.** — See note to § 3-208.5.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-205.18. Child's eligibility.**

(a) A needy child is eligible for AFDC when he is deprived of parental support or care by reason of the death, continued absence from the home, or the physical or mental incapacity of a parent, or the unemployment of his parent who is the principal earner.



(b) Both need and deprivation must exist in all AFDC cases without regard to whether one resulted from the other.

(c) When a parent who is the primary wage earner of a family must remain in the home to care for his or her children because of the sudden death, incapacity, or desertion of the other parent, assistance may be granted for a reasonable period of time, not to exceed 3 months, so that a child day care plan may be arranged. (Apr. 6, 1982, D.C. Law 4-101, § 518, 29 DCR 1060.)

**Section references.** — This section is referred to in §§ 3-205.5a and 3-205.17.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.19. Application; assignment of rights for child support.

(a) Application for public assistance shall be accepted from, or on behalf of, any person who believes himself or herself eligible for public assistance. The application shall be made in the manner and form prescribed by the Council, and shall contain such information as the Mayor shall require.

(b) An applicant for assistance is considered to have assigned to the District, at the time of application, all rights the applicant may have in the applicant's own behalf or in behalf of another family member for whom application is made for child support from another person.

(c) The assignment referred to in subsection (b) of this section:

(1) Is effective as to both current and accrued child support obligations;

(2) Takes effect upon a determination that the applicant is eligible for assistance; and

(3) Terminates when an applicant ceases to receive assistance except with respect to the amount of any unpaid support obligation accrued under the assignment. (Apr. 6, 1982, D.C. Law 4-101, § 519, 29 DCR 1060; Feb. 24, 1987, D.C. Law 6-166, § 33(b), 33 DCR 6710.)

**Section references.** — This section is referred to in §§ 3-205.5a and 3-205.17.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 6-166.** — Law 6-166, the "D.C. Child Support Enforcement Amendment Act of 1985," was introduced in Council and assigned Bill No. 6-134, which was

referred to the Committee on Human Services and reassigned to the Committee on the Judiciary. The Bill was adopted on first and second readings on July 8, 1986 and September 23, 1986, respectively. Signed by the Mayor on October 9, 1986, it was assigned Act No. 6-212 and transmitted to both Houses of Congress for its review.

### § 3-205.20. Parental absence by reason of imprisonment.

When continued absence from the home is by reason of imprisonment, the Mayor shall verify the length of the prison term of the parent, ascertain the date the parent will be eligible for parole, determine whether the parent is employed under the Work Release Program and the amount of support payment made to the family if so employed. (Apr. 6, 1982, D.C. Law 4-101, § 520, 29 DCR 1060.)

**Section references.** — This section is referred to in §§ 3-205.5a and 3-205.17.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.21. Eligibility standards for children of unemployed parents.

(a) A child shall be eligible to receive AFDC by reason of the unemployment of his or her parent who is the principal wage earner if the parent who is the principal wage earner:

~~(1) Is employed less than 35 hours a week;~~

(2) Has been employed less than 35 hours a week for at least 30 days prior to the receipt of AFDC;

(3) Has not, without good cause, within such 30-day period, refused a bona fide offer of employment or training for employment;

(4) Has 6 or more quarters of work during which he or she earned not less than \$50 in each quarter, within the 3 years and 3 months ending within 1 year prior to applying for AFDC, or, within such 1-year period, he or she has either received unemployment compensation or would have been entitled thereto had the industry in which he or she was employed been covered under the unemployment compensation law; and

(5) Is registered with the District of Columbia Department of Employment Services.

(b) The family shall not be eligible for assistance for any week in which the parent who is the principal wage earner receives unemployment compensation.

(c) The parent who is the principal wage earner must be referred to the Work Incentive Program within 30 days after receipt of the 1st AFDC payment. (Apr. 6, 1982, D.C. Law 4-101, § 521, 29 DCR 1060.)

**Section references.** — This section is referred to in §§ 3-205.5a and 3-205.17.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.22. Availability of stepparent income.

(a) A stepparent is not required by the law of the District to support his or her stepchildren, but is legally responsible for the support of his or her spouse.

(b)(1) When a child lives with a parent and a stepparent, the income of the stepparent shall be considered as available to the family in computing eligibility for public assistance according to the requirements of this subsection. When the child lives with a parent and another person, not a stepparent, who is maintaining a home with the parent, the financial resources of that person shall be considered to the extent to which that person is contributing to the support of the parent and the child.

(2) In computing the availability of a stepparent's income, the Department shall exclude:

(A) The first \$75 of the total of such stepparent's earned income for the month. If the stepparent worked less than 120 hours during the month, the amount disregarded shall be \$60;

(B) An additional amount for the support of the stepparent and any other individuals who are living in the home, but whose needs are not taken into account in making the AFDC eligibility determination and who are claimed by the stepparent as dependents for purposes of determining his or her federal personal income tax liability. This disregarded amount shall equal the District's standard of need for a family group of the same composition as the stepparent and those other individuals described in the preceding sentence;

(C) Amounts actually paid by the stepparent to individuals not living in the home but who are claimed by him or her as dependents for purposes of determining his or her federal personal income tax liability; and

(D) Payments by such stepparent of alimony or child support with respect to individuals not living in the household.

(3) All of the stepparent's remaining income shall be assumed available to the assistance unit.

(4) This provision shall not apply in those cases where the District of Columbia is regularly collecting child support from the natural parent.

(c) When there is a stepparent in the home or a person who is maintaining a home with the parent of the children receiving AFDC, his or her employability status, financial resources, and whether he or she is legally married to the parent of the children for whom AFDC is requested, will determine how requirements of members of the household are to be met in accordance with the following considerations:

(1) The requirements of a stepparent or other person who is unemployed because of incapacity or age and who is in need, will be included in the assistance payment unless he or she is eligible in his or her own right for assistance under 1 of the adult programs;

(2) A stepparent or other person who is unemployable, and has children of his or her own who are in need, may receive a separate AFDC payment for himself or herself and his or her children;

(3) The needs of a stepparent or other person who is employable and has no children of his or her own, may not be included in the AFDC payment and every effort shall be made to help him or her find employment;

(4) A stepparent who is employed is responsible for the support of his or her own children and of his or her spouse, unless such stepparent's income is not sufficient to meet the needs of his or her own dependents based on the Mayor's standard for requirements. In such cases the parent of the AFDC children shall be included in the AFDC assistance unit; and

(5) The income of the parent of the AFDC children shall be applied first to meet the needs of the assistant unit. (Apr. 6, 1982, D.C. Law 4-101, § 522, 29 DCR 1060.)

**Section references.** — This section is referred to in §§ 3-205.5a, 3-205.10, 3-205.11 and 3-205.17.

**Legislative history of Law 4-101.** — See note to § 3-201.1.



**§ 3-205.23. Obligations of custodial relatives other than parents.**

(a) When a relative applies for AFDC in behalf of a child who is living in such relative's home and the child's parents are maintaining a home elsewhere, the Mayor shall determine whether the child is in fact deprived of parental care and support.

(b) When parents are unwilling to accept the responsibility for the support of their children, a relative with whom a child is living shall be encouraged to cooperate with appropriate law enforcement officials charged with the responsibility for pursuing public remedies against the parents who are not contributing toward the support of their family; provided, that the failure of such relative to so cooperate with law enforcement officials shall have no effect on eligibility for assistance under this program. (Apr. 6, 1982, D.C. Law 4-101, § 523, 29 DCR 1060.)

**Section references.** — This section is referred to in §§ 3-205.5a and 3-205.17.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-205.24. Eligibility requirements for alien children.**

If the needy child or other member of an assistance unit is an alien legally residing in the United States according to 45 CFR 233.50, and if the alien applies for assistance after September 30, 1981, and if the alien has a sponsor, eligibility, benefit levels, reporting, and overpayment requirements shall be determined in accordance with 45 CFR 233.51-52. This section shall not apply to aliens exempt under 45 CFR 233.51(e). (Apr. 6, 1982, D.C. Law 4-101, § 524, 29 DCR 1060.)

**Section references.** — This section is referred to in §§ 3-205.5a and 3-205.17.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-205.25. Eligibility determined prospectively.**

All factors of AFDC eligibility shall be determined prospectively. The amount of monthly AFDC assistance payments shall be determined using the retrospective budgeting method except that if an AFDC applicant was not on assistance in the month prior to application, the first 2 monthly assistance payments shall be determined prospectively. (Apr. 6, 1982, D.C. Law 4-101, § 525, 29 DCR 1060; Mar. 14, 1985, D.C. Law 5-150, § 2(e), 31 DCR 6425; Sept. 10, 1985, D.C. Law 6-35, § 2(f), 32 DCR 3778.)

**Section references.** — This section is referred to in §§ 3-205.5a and 3-205.17.

**Legislative history of Law 5-150.** — See note to § 3-205.5.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 6-35.** — See note to § 3-202.5.

### **§ 3-205.26. Procedure for public and medical assistance application.**

Applications for public and medical assistance shall be approved or disapproved by the Mayor with reasonable promptness. Such action shall be taken on applications for public assistance not in excess of 45 days and on applications for medical assistance to the disabled not in excess of 60 days from the date the application is received to the date the applicant receives his 1st assistance payment or his Medicaid care or a notice of ineligibility, unless a delay is caused by unusual circumstance beyond the Mayor's control including those which are:

- (1) Wholly within the applicant's control;
- (2) Beyond his or her control, such as hospitalization or imprisonment; or
- (3) An administrative or other emergency that could not be reasonably controlled by the agency. (Apr. 6, 1982, D.C. Law 4-101, § 526, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.5a.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### **§ 3-205.27. Failure to determine eligibility within time requirement.**

The Mayor shall not terminate his consideration of an application for assistance solely because he has been unable to establish the eligibility of the applicant within the 45- or 60-day period. (Apr. 6, 1982, D.C. Law 4-101, § 527, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.5a.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### **§ 3-205.28. Income application in determining need for family receiving more than 1 assistance payment.**

When a family is receiving more than 1 assistance payment and members of a family have income, the Mayor shall apply income that must be considered in determining need as follows:

(1) When a husband and wife are each receiving assistance, income shall be divided equally between them.

(2) When the parent of minor children has income and is receiving assistance in his or her own right, his or her income shall be prorated between his or her payment and the payment for his or her dependents.

(3) When an adult child has income, is receiving assistance, and is living with his or her family which is receiving assistance, his or her income shall be applied only to his or her own requirements. (Apr. 6, 1982, D.C. Law 4-101, § 528, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.29. Income status of loans and grants.

The Mayor, in determining the amount of assistance payment to which an applicant or recipient of public welfare is entitled, shall not consider as income or as a resource loans and grants obtained and used under conditions that preclude their use for current living costs. (Apr. 6, 1982, D.C. Law 4-101, § 529, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.5a.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Living expenses received as General Public Assistance reduced by receipt of federal educational assistance.** — Since § 3-205.13(3) does not apply to General Public

Assistance contributions, living expenses received as GPA were to be reduced as a result of federal educational assistance received under the category of room and board pursuant to this section. *Cruz v. District of Columbia Dep't of Human Servs.*, App. D.C., 479 A.2d 333 (1984).

### § 3-205.30. Definitions.

As used in §§ 3-205.31 through 3-205.35, the term:

(1) "Accrued statutory benefit" means monetary sum received at 1 time of accumulated statutory payments, which payments will be continued regularly on a periodic basis.

(2) "Lump-sum payment or settlement" means nonrecurring payment such as an insurance settlement. For purposes of AFDC this includes receipt of an accrued statutory benefit if such benefit is countable under federal regulations, but does not include a payment that represents a correction of previous underpayments of AFDC benefits. (Apr. 6, 1982, D.C. Law 4-101, § 530, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.5a.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.31. Application for benefits required.

The Mayor shall, as a condition of eligibility, require each public assistance applicant, or recipient, to apply for any benefits to which he or she may be entitled. (Apr. 6, 1982, D.C. Law 4-101, § 531, 29 DCR 1060.)

**Section references.** — This section is referred to in §§ 3-205.5a and 3-205.30.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.32. Establishment of net payment received.

The Mayor shall deduct from the gross amount of any accrued statutory benefit, lump-sum payment, or settlement from any source received by a recipient of GPA (provided such money is still available to the recipient when the Mayor learns of its receipt):



(1) Attorneys' fees, medical expense, and other legitimate expenses of collection or settlement; and

(2) Legitimate debts of the recipient incurred for living expenses prior to his or her application for assistance and for which credit was extended in anticipation of the award or settlement. (Apr. 6, 1982, D.C. Law 4-101, § 532, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.30.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.33. Treatment of lump-sum payments and settlements.

(a) For applicants for and recipients of GPA:

(1) The net amount of a lump-sum payment or settlement, if less than twice the amount of current monthly assistance payment, and still available to the recipient, shall not be considered as a current resource of the recipient. Such payment or settlement may be retained by the recipient as an emergency cash reserve in an amount not in excess of that authorized by regulation.

(2) The net amount from a lump-sum payment or settlement which is equal to or exceeds twice the amount of the current monthly assistance payment, and which is still available to the recipient, shall be considered as a resource, and assistance shall be suspended for the number of months arrived at by dividing twice the amount of the assistance payment, less any new resource from monthly benefits, into lump sum. A partial month shall be disregarded in such computation. A lump-sum payment received by a recipient for a verifiable specified purpose, which in the judgment of the Mayor is not contrary to sound public assistance administration, shall not be considered as a current resource if the money is used or set aside for such purpose. A lump-sum payment received in settlement of a claim or as a court judgment for an injured child may be deposited in a trust fund for the education, rehabilitation, or protection of the future welfare of such injured child.

(3) Assistance which has been suspended pursuant to paragraph (2) of this subsection may be reinstated by the Mayor when the individual has had unanticipated expenses to the extent that he or she is unable to maintain himself or herself on his or her income for the specified period of suspension.

(b) For applicants for and recipients of AFDC:

(1) The amount of a lump-sum payment or settlement shall be considered as current income of the applicant or recipient, both in the month in which it was received and in future months, as required by law.

(2) If the amount of the payment, when added to any other income, exceeds the standard of assistance applicable to the family of which the applicant or recipient is a member:

(A) The family of the applicant or recipient shall be ineligible for assistance for the full number of months that equals:

(i) The sum of the payment and all other countable income received in such month, divided by;

(ii) The standard of assistance applicable to such family; and

(B) Any income remaining (which amount is less than the applicable monthly standard) shall be treated as if it were income received in the 1st month following the period of ineligibility specified in subparagraph (A) of this paragraph.

(3) The period of ineligibility described in paragraph (2) of this subsection shall be shortened if: (A) An applicant reapplies and it is determined that the standards of assistance have been increased and the amount the assistance unit would have received has also changed; (B) the lump-sum payment or a portion of it has become unavailable to the assistance unit for a reason beyond the control of the assistance unit; or (C) a member of the assistance unit incurred and paid for medical expenses in a month during the period of ineligibility caused by receipt of a lump-sum payment. The Mayor shall establish guidelines for determining when the circumstances of an assistance unit fall within the purview of this paragraph. (Apr. 6, 1982, D.C. Law 4-101, § 533, 29 DCR 1060; Mar. 14, 1985, D.C. Law 5-150, § 2(f), 31 DCR 6425; Sept. 10, 1985, D.C. Law 6-35, § 2(g), 32 DCR 3778.)

**Section references.** — This section is referred to in §§ 3-205.5a and 3-205.30.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 5-150.** — See note to § 3-205.5.

**Legislative history of Law 6-35** — See note to § 3-202.5.

### § 3-205.34. Treatment of accrued statutory benefits.

For applicants for and recipients of GPA:

(1) The net amount from the payment of an accrued statutory benefit, if less than twice the amount of the current monthly assistance payment (as reduced by the monthly statutory benefit payments) and still available to the recipient, shall not be considered as a current resource of the recipient. Such payment may be used by the recipient to purchase items not included in the standard for requirements, but may not be retained as a cash reserve.

(2) The net amount from a payment of accrued statutory benefits which is equal to or exceeds twice the amount of the current monthly assistance payment (as reduced by the monthly statutory benefit payments) and which is still available to the recipient, shall be considered as a resource, and assistance shall be suspended for the number of months arrived at by dividing twice the amount of the assistance payment, less any new resource from monthly benefits, into the statutory benefit payment. A partial month shall be disregarded in such computation.

(3) Assistance which has been suspended pursuant to paragraph (2) of this section may be reinstated by the Mayor when the individual has had unanticipated expenses to the extent that he or she is unable to maintain himself or herself on his or her income for the specified period of suspension. (Apr. 6, 1982, D.C. Law 4-101, § 534, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.30.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.35. Failure of recipients to report promptly.

When the receipt of a lump-sum or accrued statutory benefit payment is not reported promptly and a part of the money has been spent, the length of time assistance shall be suspended shall be based on the amount of the payment remaining and available to the recipient at the time the Mayor learns of the resource, less any amount the recipient may repay of the overpayment that accrued as a result of the recipient's failure to report the resource. (Apr. 6, 1982, D.C. Law 4-101, § 535, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.30.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Where recipient failed to provide information requested** by Department of Human Services in compliance with statutorily prescribed reporting requirements under this section, DHS's termination of recipient's general public assistance was justified but, in light of

recipient's pro se appearance, his failure to provide the required information did not deprive court of power to reach the substantive issue of the fairness of any reduction in the general public assistance he might have received if he had supplied the information. *Cruz v. District of Columbia Dep't of Human Servs.*, App. D.C., 479 A.2d 333 (1984).

### § 3-205.36. Work incentive allowances disregarded.

The Mayor, in determining the extent of need of persons who are receiving AFDC or GPA and are selected by the vocational rehabilitation program to receive vocational training for gainful employment, shall disregard the full amount of work incentive allowances paid to trainees by the vocational rehabilitation program. (Apr. 6, 1982, D.C. Law 4-101, § 536, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.5a.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.37. Standard for income and resource determination.

The Mayor shall, in establishing the need of an individual for assistance, take into consideration all income and resources of such individual in excess of any amounts which may, under the provisions of the Social Security Act (42 U.S.C. § 301 et seq.), be legally disregarded. (Apr. 6, 1982, D.C. Law 4-101, § 537, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.5a.

**Legislative history of Law 4-101.** — See note to § 3-201.1.



**§ 3-205.38. Availability of income and resources.**

All income and other resources shall be identifiable as to nature, amount, and time of receipt, and must be actually available to the applicant or recipient for his or her current use. Unpredictable and inconsequential gifts or earnings shall not be considered resources. (Apr. 6, 1982, D.C. Law 4-101, § 538, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.5a.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-205.39. Earned income.**

Earned income includes income or resources in cash or in kind earned by an individual through the receipt of wages, salaries, commissions, or profit from activities in which he or she is self-employed. (Apr. 6, 1982, D.C. Law 4-101, § 539, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.5a.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-205.40. Resources in kind.**

(a) Resources in kind are basic necessities, such as food, clothing, or shelter, which an individual obtains without charge or in return for his or her services.

(1) In taking into consideration such resources in determining need, the money value shall not exceed the allowance in the standard for requirements for the item provided.

(2) Home produce of an applicant or recipient, utilized by him or her and his or her household for their own consumption, shall not be considered in determining need and the amount of payment.

(b) An individual shall not be required to accept an offer of a free home. (Apr. 6, 1982, D.C. Law 4-101, § 540, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.5a.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-205.41. Emergency applicant may retain automobile.**

An applicant for public assistance who requests assistance by reason of an emergency for not more than 60 days shall be entitled to retain whatever automobile is then owned or being paid for by him or her. (Apr. 6, 1982, D.C. Law 4-101, § 541, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.42. Definitions relating to incapacity and disability.

For the purpose of determining coverage and conditions of eligibility of applicants and recipients in financial and medical assistance programs of the District, the Mayor shall apply the following definitions relating to incapacity and disability with respect to parents and other adults who are otherwise eligible for assistance under such programs:

(1) *Physical or mental incapacity.* — (A) For the AFDC program, physical or mental incapacity shall be deemed to exist when 1 parent has a physical or mental defect, illness, or impairment. The incapacity shall be supported by competent medical testimony and must be of such a debilitating nature as to reduce substantially or eliminate the parent's ability to support or care for an otherwise eligible child and be expected to last for a period of at least 30 days.

(B) Repealed.

(C) In making the determination of ability to support, the Mayor shall take into account the limited employment opportunities of handicapped individuals.

(D) A finding of eligibility for OASDI or SSI benefits, based on disability or blindness, shall be deemed acceptable proof of incapacity for purposes of the AFDC program.

(2) *Disability.* — An individual shall be deemed to be disabled if the individual is determined by the Mayor to be disabled based upon the criteria for the supplemental security income program established pursuant to the Social Security Amendments Act of 1972 (42 U.S.C. § 1381 et seq.), for the purposes of establishing eligibility for the GPA program. (Apr. 6, 1982, D.C. Law 4-101, § 542, 29 DCR 1060; Aug. 17, 1991, D.C. Law 9-19, title I, § 101(e), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-27, § 2(e), 38 DCR 4205.)

**Section references.** — This section is referred to in §§ 3-205.42a and 3-205.53.

**Effect of amendments.** — D.C. Law 9-27 repealed paragraph (1)(B); substituted "program" for "or GPA programs" in (1)(D); and rewrote (2).

**Temporary amendments of section.** — Section 101(e) of D.C. Law 9-19 repealed paragraph (1)(B), substituted "program" for "or GPA programs" in (1)(D), and rewrote (2).

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For tem-

porary amendment of section, see § 101(e) of the Omnibus Budget Support Emergency Act of 1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390).

For temporary amendment of section, see § 101(e) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 9-19.** — See note to § 3-205.5a.

**Legislative history of Law 9-27.** — See note to § 3-205.5a.

### § 3-205.42a. Eligibility for General Public Assistance.

(a) Except as provided in subsection (b) of this section, beginning July 1, 1991, an individual shall be eligible for GPA benefits only if the individual has a disability as defined in § 3-205.42(2).

(b) An individual who is receiving GPA benefits on June 30, 1991, may continue to receive GPA benefits until the expiration of the individual's certification period. Benefits beyond the expiration of the certification period shall

not be paid to an individual unless the GPA recipient reapplies for benefits and is determined to have a disability as defined in § 3-205.42(2). (Apr. 6, 1982, D.C. Law 4-101, § 542a, as added Aug. 17, 1991, D.C. Law 9-19, title I, § 101(f), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-27, § 2(f), 38 DCR 4205; Feb. 5, 1994, D.C. Law 10-68, § 10(d), 40 DCR 6311.)

**Effect of amendments.** — D.C. Law 9-27 added this section.

D.C. Law 10-68 deleted "of this act" from the end of subsections (a) and (b).

**Temporary addition of section.** — Section 101(f) of D.C. Law 9-19 added a § 3-205.42a.

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary addition of section, see § 101(f) of the Omnibus Budget Support Emergency Act of

1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390).

For temporary addition of section, see § 101(f) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 9-19.** — See note to § 3-205.5a.

**Legislative history of Law 9-27.** — See note to § 3-205.5a.

**Legislative history of Law 10-68.** — See note to § 3-201.1.

### § 3-205.43. Participation in labor dispute; pregnancy.

(a) A parent who is the principal earner of an assistance unit and who is unemployed because of participation in a labor dispute may be eligible for AFDC on the basis of deprivation due to unemployment if other eligibility requirements are met.

(b) A pregnant woman may be eligible for AFDC benefits for herself when the pregnancy has been medically verified if other eligibility requirements are met. The Mayor shall provide to the pregnant woman written information and referral as to the availability of prenatal care services and nutrition supplements for pregnant women. (Apr. 6, 1982, D.C. Law 4-101, § 543, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.44. Amount.

(a) The amount of public assistance which any person shall receive shall be determined by the Council.

(b) Such amount as referred to in subsection (a) of this section shall not be less than the full amount determined as necessary on the basis of the minimum needs of such person as established by the Council. (Apr. 6, 1982, D.C. Law 4-101, § 544, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.5a.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Availability of appropriation.** — Section 107 of Pub. L. 103-127, 107 Stat. 1344, the District of Columbia Appropriations Act, 1994, provided that appropriations in this Act shall be available for the payment of public assis-

tance without reference to the requirement of this section, and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

**Requirements imposed.** — This section imposes two requirements on the council: a



substantive requirement that public assistance payments equal the minimum needs of recipients, and a procedural requirement that the council must rationally assess the minimum needs of recipients before setting that level. Successive Congressional appropriations acts have suspended or repealed the substantive requirement, but the procedural requirement remains valid. *Baugh v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 120 WLR 175 (Super. Ct. 1992).

**Full payment suspended.** — The full payment requirement of this section was suspended by the District of Columbia Appropriations Act of 1990. *Baugh v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 120 WLR 175 (Super. Ct. 1992).

**Minimum needs.** — The "minimum needs" referred to in this section are the same as the "standards of assistance" set forth in § 3-205.52. *Baugh v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 120 WLR 175 (Super. Ct. 1992).

Because this section does not specify a methodology for establishing the standards of assistance, requiring only that the council establish minimum needs "as necessary," the council has broad discretion in setting standards of assistance. *Baugh v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 120 WLR 175 (Super. Ct. 1992).

### § 3-205.45. Standard for requirements exceptions.

The Department in determining need for public assistance will authorize the full allowance for basic requirements for the number of persons in the assistance unit as specified in the standard for requirements with the following exceptions:

(1) The principle of family budgeting shall be applied when there is more than 1 assistance payment paid to members of a family, by prorating the allowance for basic requirements according to the number of persons included in each payment.

(2) When 2 or more related families are receiving assistance and share the same living quarters, the shelter allowance shall be prorated according to the number in each assistance unit.

(3) When children who are receiving assistance are living in the home of a self-supporting relative who requests an allowance for shelter for the children, the amount allowed shall not exceed the children's prorated share of the relative's actual shelter cost, nor exceed the shelter allowance standard for the number of children in the payment. (Apr. 6, 1982, D.C. Law 4-101, § 545, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.46. Meal standard.

When a recipient prepares some of his meals at home and eats some meals in restaurants, the Mayor shall use the standard that predominately applies to his eating pattern. (Apr. 6, 1982, D.C. Law 4-101, § 546, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-205.47. Nursing care standard.**

(a) When a recipient is receiving nursing care in the home of a relative, the Mayor will apply the standard for room, board, and care in an intermediate care facility, based on the kind and extent of care required.

(b) The rate for care in a foster home or for residential placement shall be the same as that for the lowest rate in an intermediate care facility.

(c) The rates paid for intermediate care, foster home care, or residential placement shall be paid at 100% of the standard as the rates were not increased in the 1970 budget. (Apr. 6, 1982, D.C. Law 4-101, § 547, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-205.48. Standards of assistance adopted and applied.**

Standards of assistance are adopted superseding the existing standards for requirements, and shall be applied:

- (1) To determine the eligibility of applicants for public assistance; and
- (2) To determine or redetermine the amount of public assistance grant for the recipient. (Apr. 6, 1982, D.C. Law 4-101, § 548, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.5a.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-205.49. Special living arrangements.**

(a) Recipients of public assistance who are in nursing homes shall receive a payment of \$20 per month for clothing and personal needs.

(b) Recipients of public assistance who are in half-way houses for alcoholics or drug addicts shall receive a payment of \$170 per month, \$150 of which shall be for room, board, and care, and the remaining \$20 for clothing and personal needs.

(c) Effective with payments beginning on April 1, 1983, recipients of Supplemental Security Income or General Public Assistance living in community residence facilities having 50 or fewer residents shall receive a payment of \$416.50 per month, \$376.50 of which shall be used for room, board, and care, and \$40 of which shall be retained by the recipient for clothing and personal needs.

(d) Effective with payments beginning on April 1, 1983, recipients of SSI or GPA residing in community residence facilities with a capacity for more than 50 residents shall receive a payment of \$526.50 per month, \$486.50 of which shall be used for room, board, and care, and \$40 of which shall be retained by the recipient for clothing and personal needs. At no time shall the total number of persons receiving payments from the District pursuant to this subsection exceed 250 persons.

(e) In the event the SSI payment is increased on or after March 10, 1983, the total amount of any increase shall be added to the payment levels autho-

rized by subsections (c) and (d) of this section and shall be used for room, board, and care.

(f) For the purposes of this section, the terms "nursing home" and "community residence facility" mean those terms as they are defined in § 32-1301(a)(3) and (4).

(g) The Mayor may, pursuant to subchapter I of Chapter 15 of Title 1, set payment levels higher than those established by this section and, with respect to community residence facilities, vary payment levels according to subtypes different from, or in addition to, those recognized by subsections (c) and (d) of this section. (Apr. 6, 1982, D.C. Law 4-101, § 549, 29 DCR 1060; Mar. 10, 1983, D.C. Law 4-208, § 2(b), 30 DCR 202; June 25, 1986, D.C. Law 6-124, § 2(a), 33 DCR 2940.)

**Section references.** — This section is referred to in § 3-204.6.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 4-208.** — See note to § 3-204.6.

**Legislative history of Law 6-124.** — Law 6-124, the "Public Assistance Amendments Act of 1986," was introduced in Council and assigned Bill No. 6-339, which was referred to

the Committee on Human Services. The Bill was adopted on first and second readings on March 25, 1986, and April 15, 1986, respectively. Signed by the Mayor on May 2, 1986, it was assigned Act No. 6-160 and transmitted to both Houses of Congress for its review.

**Delegation of authority pursuant to Law 6-124.** — See Mayor's Order 86-220, December 23, 1986.

## § 3-205.50. Costs of training and employment.

(a) Repealed.

(b) Repealed.

(c) When an adult member of a GPA unit or an applicant for GPA has income from employment, only the net income shall be treated as a resource in determining eligibility for and payment of GPA. Net income is defined as gross income less:

(1) All income required to be disregarded pursuant to §§ 3-205.5 through 3-205.12;

(2) All deductions from gross income required by law or as a condition of employment;

(3) Union dues when required;

(4) Cost of special equipment necessary for employment;

(5) Cost of child care when not provided by the employer or the Mayor; and

(6) An amount which represents costs incidental to earning an income. This amount shall be \$58 per month when the applicant or recipient is employed 30 hours or more per week, and \$44 per month when the applicant or recipient is employed less than 30 hours per week.

(d) Repealed.

(e) The Mayor shall guarantee transportation, work-related, or other supportive services necessary for a member of an assistance unit to participate in or prepare for an approved training or educational activity or employment, in accordance with the District of Columbia Supportive Services Plan submitted to the United States Department of Health and Human Services ("H.H.S.")



pursuant to 45 CFR Part 255. (Apr. 6, 1982, D.C. Law 4-101, § 550, 29 DCR 1060; Sept. 10, 1985, D.C. Law 6-35, § 2(h), 32 DCR 3778; June 25, 1986, D.C. Law 6-124, § 2(b), 33 DCR 2940; June 22, 1990, D.C. Law 8-144, § 2, 37 DCR 2974; Mar. 6, 1991, D.C. Law 8-202, § 2, 37 DCR 7937.)

**Section references.** — This section is referred to in §§ 3-205.5a and 3-205.10.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 6-35.** — See note to § 3-202.5.

**Legislative history of Law 6-124.** — See note to § 3-205.49.

**Legislative history of Law 8-144.** — Law 8-144, the "District of Columbia Family Support Act Federal Conformity Amendment Temporary Act of 1990," was introduced in Council and assigned Bill No. 8-543. The Bill was adopted on first and second readings on March 27, 1990, and April 10, 1990, respectively. Signed by the Mayor on April 26, 1990, it was

assigned Act No. 8-200 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-202.** — Law 8-202, the "District of Columbia Family Support Act Federal Conformity Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-541, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on October 23, 1990, and November 13, 1990, respectively. Signed by the Mayor on November 30, 1990, it was assigned Act No. 8-268 and transmitted to both Houses of Congress for its review.

**Delegation of authority pursuant to Law 6-124.** — See Mayor's Order 86-220, December 23, 1986.

## § 3-205.51. Denial of monthly benefits.

No assistance unit will receive AFDC monthly benefits if the benefit check prior to adjustments is less than \$10. An assistance unit denied benefits as a result of this provision shall continue to be considered eligible for AFDC for all other purposes. (Apr. 6, 1982, D.C. Law 4-101, § 551, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-205.5a.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

## § 3-205.52. Determination of amount of public assistance payments for assistance unit; standards of assistance enumerated.

(a) To determine the public assistance payment for an assistance unit, the Mayor shall subtract any available resources of the assistance unit (after applicable disregards) from the current payment level except that an applicant for AFDC with earned income, who has not been a recipient of assistance within any of the 4 months preceding the date of application, shall have his or her eligibility determined under the standards of assistance.

(b) Subsection (a) of this section shall not apply to payments for training, employment, or special living arrangements.

(c) The standards of assistance are set forth in the following table and include basic costs of food, clothing, shelter, household and personal items, and certain transportation costs, and life insurance when paid by the Mayor:

## STANDARDS OF ASSISTANCE

Family Size	Standard of Assistance	Payment Level
1	\$ 450.00	\$ 258.00
2	560.00	321.00
3	712.00	409.00
4	870.00	499.00
5	1,002.00	575.00
6	1,178.00	676.00
7	1,352.00	776.00
8	1,494.00	858.00
9	1,642.00	943.00
10	1,786.00	1,025.00
11	1,884.00	1,081.00
12	2,024.00	1,162.00
13	2,116.00	1,215.00
14	2,232.00	1,281.00
15	2,316.00	1,329.00
16	2,432.00	1,396.00
17	2,668.00	1,531.00
18	2,730.00	1,567.00
19	2,786.00	1,599.00

(d) The table set forth in subsection (c) of this section shall apply to payments made beginning July 1, 1991. On or before January 31st of each year, beginning with January 31, 1993, the Mayor shall calculate and submit to the Council a determination of the percentage increase during the preceding calendar year in the consumer price index for urban consumers for all items, as published by the United States Department of Labor ("Consumer Price Index"). The level of public assistance payments for assistance units set forth in subsection (c) of this section shall be increased annually as of October 1st of each year, beginning with October 1, 1993, by an amount equal to the percentage increase, if any, in the consumer price increase as determined by the Mayor. The Mayor shall publish notice of this annual increase in public assistance payments in the D.C. Register within 30 days of the increase. The increase in public assistance payments provided by this subsection shall be in addition to any other increase in public assistance payments otherwise provided by law. Except with respect to AFDC families with no earned income who have entered into and are residing temporarily in a shelter for homeless families pursuant to Chapter 6 of this title, the Mayor shall adjust the payment level for families in emergency shelters to take into consideration the reasonable costs of shelter being provided by the District [pursuant to § 3-206.3(e)]. (Apr. 6, 1982, D.C. Law 4-101, § 552, 29 DCR 1060; May 19, 1982, D.C. Law 4-108, § 3, 29 DCR 1413; Aug. 10, 1984, D.C. Law 5-100, § 2, 31 DCR 2896; Apr. 11, 1986, D.C. Law 6-106, § 2, 33 DCR 1165; June 25, 1986, D.C. Law 6-124, § 2(c), 33 DCR 2940; Mar. 11, 1988, D.C. Law 7-86, § 2(a), 35 DCR 140; Aug. 17, 1991, D.C. Law 9-19, title I, § 101(g), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-27, § 2(g), 38 DCR 4205.)

**Section references.** — This section is referred to in §§ 3-205.5a and 3-220.3.

**Effect of amendments.** — D.C. Law 9-27 in (c), deleted "based on the February 1985 cost of living index" following "the standards of assistance" and amended each dollar amount in the Payment Level column; in (d), substituted "apply to payments made beginning July 1, 1991" for "be used for the fiscal year beginning October 1, 1986" in the first sentence; substituted "1993" for "1987" in the second and third sentences; deleted the former fifth sentence, and substituted "§ 3-206.3(e)" for "§ 3-206.3(b)(1)" in the present fifth sentence.

**Temporary amendments of section.** — Section 101(g) of D.C. Law 9-19 in (c), deleted "based on the February 1985 cost of living index" following "assistance"; inserted "and" before "certain transportation costs", and amended all dollar amounts in the payment level column. In (d), substituted "apply to payments made beginning July 1, 1991" for "be used for the fiscal year beginning October 1, 1986" in the first sentence; substituted "January 31st, 1993" for "January 31, 1987" in the second sentence; substituted "1993" for "1987" in the third sentence; deleted the former fifth sentence, and substituted "§ 3-206.3(e)" for "§ 3-206(b)(1)" in the last sentence.

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 101(g) of the Omnibus Budget Support Emergency Act of 1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390).

For temporary amendment of section, see § 101(g) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 4-108.** — Law 4-108, the "District of Columbia Administration of Oaths, Public Assistance Technical Clarification, and Police Service and Fire Service Schedule Approval Act of 1982," was introduced in Council and assigned Bill No. 4-397, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on February 23, 1982 and March 9, 1982, respectively. Signed by the Mayor on March 26, 1982, it was assigned Act No. 4-169 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 5-100.** — Law 5-100, the "Public Assistance Payments Increase Act of 1984," was introduced in Council and assigned Bill No. 5-371, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on April 30, 1984, and May 15, 1984, re-

spectively. Signed by the Mayor on June 6, 1984, it was assigned Act No. 5-141 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-106.** — Law 6-106, the "District of Columbia Public Assistance Payments Increase Temporary Act of 1985," was introduced in Council and assigned Bill No. 6-366. The Bill was adopted on first and second readings on January 14, 1986 and January 28, 1986, respectively. Approved without the signature of the Mayor on February 14, 1986, it was assigned Act No. 6-135 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-124.** — See note to § 3-205.49.

**Legislative history of Law 7-86.** — See note to § 3-206.6.

**Legislative history of Law 9-19.** — See note to § 3-205.5a.

**Legislative history of Law 9-27.** — See note to § 3-205.5a.

**Mayor's reports.** — Section 4 of Law 7-86 provided that within 180 days of March 11, 1988, the Mayor shall transmit to the Council a written report describing specific plans and timetables for implementing the provisions of this act. The Mayor shall transmit to the Council an annual updated written report regarding the status of the Emergency Shelter Family Program.

**Repeal of § 2 of Law 6-106.** — Section 3 of D.C. Law 6-124 provided that subject to § 4(b), the District of Columbia Public Assistance Payments Increase Temporary Act of 1986, approved February 14, 1986 (Law 6-106; 33 DCR 1165), is repealed. Section 4(b) of D.C. Law 6-124 provided that § 3 of the act shall not take effect until October 1, 1986.

**Delegation of authority pursuant to Law 6-124.** — See Mayor's Order 86-220, December 23, 1986.

**Minimum needs.** — The "minimum needs" referred to in § 3-205.44 are the same as the "standards of assistance" set forth in this section. *Baugh v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 120 WLR 175 (Super. Ct. 1992).

The table in this section clearly demonstrates, by simple comparison, that payment levels do not meet the corresponding standards of assistance, in compliance with the holding in *Rosado v. Wyman*, 397 U.S. 397, 90 S. Ct. 1207, 25 L. Ed. 2d 442 (1970), which interpreted the U.S. Code to require states to reveal the extent to which benefit payments do not meet the standards of assistance. *Baugh v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 120 WLR 175 (Super. Ct. 1992).

*Cited in Abdulshakur v. District of Columbia*, App. D.C., 589 A.2d 1258 (1991).



**§ 3-205.53. Reconsideration of grants; modification of amount; duty of recipient to notify Mayor of change of circumstances; grants under General Public Assistance Program for Unemployables.**

(a) All public assistance grants made under this chapter shall be reconsidered by the Mayor as frequently as he or she may deem necessary, ~~but in every case the Mayor shall make such reconsiderations at least once in each year.~~ After such further investigation as the Mayor may deem necessary, the amount of public assistance may be changed, or may be entirely withdrawn, if the Mayor finds that any such grant has been made erroneously, or if he or she finds that the recipient's circumstances have altered sufficiently to warrant such action. ~~If at any time during the continuance of public assistance the recipient thereof becomes possessed of income or resources in excess of the amount previously reported by him or her, or if other changes should occur in the circumstances previously reported by him or her which would alter either his or her need or his or her eligibility, it shall be his or her duty to notify the Mayor of such fact immediately on the receipt or possession of such additional income or resources, or on the change of circumstances.~~

(b) The period of payment of public assistance grants under the General Public Assistance Program shall be limited to such period as may be determined by the Mayor. No payment shall be made to any applicant or recipient of GPA for a period in excess of 12 months for the same disability unless the grant is reviewed as the result of a reapplication by the applicant or recipient, as provided in subsection (c) of this section.

(c) Any person whose public assistance payment had been terminated because of the provision of subsection (b) of this section and now, because of a continuing inability to work due to a physical or mental disability, continues to require such assistance may reapply for an extension of the period of the payment of such GPA. Sixty days prior to termination of the period of eligibility the Mayor shall notify the client in writing advising him or her to submit a new medical report and to request continuation of assistance within 30 days of the date that the notice is mailed (postmarked), if he believes he is still eligible for assistance. No client who submits to the Mayor the request for continuation of assistance and submits a new medical report within the 30 days of the date his or her notice is mailed (postmarked) shall have his or her assistance terminated unless his or her case has been reviewed by the Mayor and he or she has been found ineligible. Benefits shall not be continued beyond the effective date of termination if the sole basis for the individual's appeal of the termination is the failure to meet the disability standard defined in § 3-205.42.

(d) For the purposes of this section, GPA covers adult individuals and adult couples without children who:

- (1) Are between the age of 18 to 64 years;
- (2) Are not eligible for AFDC;
- (3) Have been determined to be disabled by the Mayor; and

(4) Have applied for Supplemental Security Income ("SSI") benefits at the time an application for GPA benefits is filed. (Apr. 6, 1982, D.C. Law 4-101, § 553, 29 DCR 1060; Aug. 17, 1991, D.C. Law 9-19, title I, § 101(h), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-27, § 2(h), 38 DCR 4205; Feb. 5, 1994, D.C. Law 10-68, § 10(e), 40 DCR 6311.)

**Effect of amendments.** — D.C. Law 9-27, in the first sentence of (b), deleted "for Unemployables (G-U)" following "Program"; and deleted "of incapacity" following "period"; in the second sentence of (b), deleted "Within any 12-month period" preceding "no such payment"; substituted "12 months" for "6 months," and substituted "disability" for "incapacity"; in (c), substituted "disability" for "incapacity" in the first sentence; inserted "and submits as new medical report" in the third sentence, added the fourth sentence, and rewrote (d).

D.C. Law 10-68 substituted "reapplication" for "re-application" in subsection (b).

**Temporary amendments of section.** — Section 101(h) of D.C. Law 9-19 in (b), deleted "for Unemployables (G-U)" following "Program"; and "of incapacity" following "period" in the first sentence; deleted "Within any 12-month period" at the beginning of the second sentence; substituted "12 months" for "6 months", and "disability" for "incapacity" in the second sentence; in (c), substituted "disability" for "incapacity" in the first sentence,

inserted "and submits a new medical report" in the third sentence, and added the last sentence; and rewrote (d).

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 101(h) of the Omnibus Budget Support Emergency Act of 1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390).

For temporary amendment of section, see § 101(h) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 9-19.** — See note to § 3-205.5a.

**Legislative history of Law 9-27.** — See note to § 3-205.5a.

**Legislative history of Law 10-68.** — See note to § 3-201.1.

## § 3-205.54. AFDC assistance unit monthly report.

(a) Each AFDC assistance unit whose members have earned income or recent work history and each assistance unit that has income deemed to it from individuals living with the unit who have earned income or a recent work history shall report monthly on:

(1) The family's income, composition, and other circumstances relevant to the amount of the assistance payment during the prior month;

(2) Any changes in income, resources, or other relevant circumstances (as defined by the Mayor) affecting continued eligibility which the family expects to occur in the current month or future months; and

(3) If appropriate, stepparent's income and alien sponsor's income and resources.

(b) All monthly reports must be received by the Mayor by the 10th of the month. In addition to the monthly report any change in earnings affecting eligibility between monthly reporting periods must be reported within 10 days of receipt of the earnings.

(c) When the Mayor receives a complete report by the 10th of the month, it shall act promptly to change or terminate assistance payments as may be appropriate on the basis of information contained in the monthly report. Written notice of the change or termination must be adequate, as defined by 45 CFR 205.10(a)(4)(i)(B), must be sent to the recipient, and must be postmarked



no later than 15 days prior to the date the recipient would receive the changed payment or would have received payment, if assistance had not been terminated. A recipient has 10 days from the date of the notice to request a fair hearing.

(d) If the recipient fails to file a report on time, without good cause, or if the report filed is incomplete, the Mayor shall take prompt action to terminate assistance. The Mayor shall give the recipient written notice if assistance is being terminated as a result of failure to file or complete a report and the notice must be adequate as defined by 45 CFR 205.10(a)(4)(i)(B). The notice must be sent to the recipient and must be postmarked no later than 15 days prior to the date the recipient would receive payment if assistance had not been terminated. A recipient has 10 days from the date of the notice to request a fair hearing. If a recipient makes a timely request for a hearing, the assistance payment for the next month shall not be terminated, reduced, or delayed and shall continue each month thereafter until a decision is rendered after a hearing. If, within 10 days of issuance of the notice of termination, the recipient filed a completed report, the Mayor shall accept the replacement form and shall make a payment based on the information on the form if the information indicates that the recipient is still eligible. If the recipient is found ineligible, or eligible for an amount less than the prior month's payment, the Mayor shall promptly give the recipient written notice of the change or termination. The written notice must be adequate as defined by 45 CFR 205.10(a)(4)(i)(B). If the recipient makes a timely submission of a replacement report, the assistance payment may not be terminated or reduced or delayed the next month, based on information in the replacement report, until the recipient has been given written notice of the termination or reduction. The recipient shall have 10 days from the date of the notice to request a hearing. If the recipient makes a timely request for a hearing, the assistance payment shall not be terminated, reduced, or delayed thereafter until a decision is rendered after a hearing.

(e) If a recipient has earned income, and fails to file a report of that income on time, without good cause, the \$30 plus one-third income, child care, and work expenses disregards shall not be allowed for the month that was to be reported on.

(f) The Mayor may exempt federally mandated categories of recipients from reporting each month if such exemption is approved by the Secretary of the United States Department of Health and Human Services prior to the due date of the monthly report. The Mayor may require monthly reporting from additional categories of recipients that meet error-prone criteria as defined by the Mayor.

(g) The assistance unit need not file a monthly report for the month in which eligibility is initially determined. (Apr. 6, 1982, D.C. Law 4-101, § 554, 29 DCR 1060; Mar. 14, 1985, D.C. Law 5-150, § 2(g), 31 DCR 6425; Sept. 10, 1985, D.C. Law 6-35, § 2(i), 32 DCR 3778.)



**Section references.** — This section is referred to in § 3-210.18.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 5-150.** — See note to § 3-205.5.

**Legislative history of Law 6-35.** — See note to § 3-202.5.

### § 3-205.55. Timely and adequate notice of action to discontinue, etc., assistance.

(a) The Mayor shall give timely and adequate notice in cases of intended action to discontinue, withhold, terminate, suspend, reduce assistance, or make assistance subject to additional conditions, or to change the manner or form of payment to a protective, vendor, or 2-party payment.

(1) "Timely" means that the notice is postmarked at least 15 days before the date upon which the action would become effective.

(2) "Adequate" means that the written notice includes a statement of what action the Mayor intends to take, the reasons for the intended action, the specific law and regulations supporting the action, an explanation of the individual's right to request a hearing, and the circumstances under which assistance will be continued if a hearing is requested.

(b) The Mayor may dispense with timely notice, but shall send adequate notice no later than the date upon which the action would become effective when:

(1) The Mayor has factual information confirming the death of a recipient or of the AFDC payee when there is no relative available to serve as new payee;

(2) The Mayor receives a clear written statement signed by a recipient that states that he or she no longer wishes assistance, or that gives information that requires termination or reduction of assistance, and the recipient has indicated, in writing, that he or she understands the consequence of supplying this information;

(3) The recipient's whereabouts are unknown and mail sent to him or her has been returned by the post office indicating no known forwarding address. (If the recipient's whereabouts become known during the payment period covered by a returned check, the recipient's check shall be made available to him or her by the Mayor.);

(4) The recipient has been accepted for assistance in a new jurisdiction and that fact has been previously established by the Mayor; or

(5) A special allowance granted for a specific period is terminated and the recipient had been informed in writing at the time the allowance was granted that the allowance shall automatically terminate at the end of the specified period.

(c) When changes in District of Columbia law require automatic grant adjustments for classes of recipients, timely notice of these grant adjustments shall be given, which shall be deemed "adequate" if it includes a statement of the intended action, the reasons for the intended action, a statement of the specific change in law requiring the action, and a statement of the circumstances under which a hearing may be obtained and assistance continued.

(Apr. 6, 1982, D.C. Law 4-101, § 555, 29 DCR 1060; Sept. 10, 1985, D.C. Law 6-35, § 2(j), 32 DCR 3778.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 6-35.** — See note to § 3-202.5.

**Statement of intended action.** — This section does not require personalized computations of changes in benefits, but frames the requirement in more general terms of a "statement of the intended action." *Baugh v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 120 WLR 175 (Super. Ct. 1992).

Section 3-210.2(c) read in tandem with the requirement of subsection (c) of this section that the notice provide a statement of the cir-

cumstances under which a hearing may be obtained requires only that the district inform AFDC recipients that a personalized hearing will not result in any modification of the change effectuated by the Public Assistance Act of 1982 Budget Conformity Amendment Act of 1991. *Baugh v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 120 WLR 175 (Super. Ct. 1992).

Failure to reinform plaintiffs of their right to a computational hearing does not invalidate a notice prior to reducing benefits. *Baugh v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 120 WLR 175 (Super. Ct. 1992).

### § 3-205.56. Information from source other than recipient.

(a) When the information that is the basis for reduction or termination of payment comes from a source other than the recipient, the representative of the Mayor shall discuss the information with the recipient and notify him or her orally and in writing that if the recipient does not agree with or accept the information, he or she has 15 days to present additional information, or, in lieu thereof, to request a fair hearing.

(b) In arranging the appointment for the discussion, the representative of the Mayor shall advise the recipient of his or her right to bring other persons with him or her who have knowledge of his or her situation, including a legal representative if he or she so desires. (Apr. 6, 1982, D.C. Law 4-101, § 556, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.57. Consequences of failure to request hearing or submit additional information to clarify eligibility.

If, after 15 days from the date of postmark of the written notice, the recipient does not request a fair hearing, or if applicable, does not submit additional information to clarify his eligibility status, the representative of the Mayor shall take immediate action to reduce or terminate the assistance payment, and shall notify the recipient in writing of the action taken, and its effective date. (Apr. 6, 1982, D.C. Law 4-101, § 557, 29 DCR 1060; Sept. 10, 1985, D.C. Law 6-35, § 2(k), 32 DCR 3778.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 6-35.** — See note to § 3-202.5.

**Where recipient failed to provide infor-**

**mation requested** by Department of Human Services in compliance with statutorily prescribed reporting requirements under § 3-205.35, DHS's termination of recipient's general public assistance was justified but, in light

of recipient's pro se appearance, his failure to provide the required information did not deprive court of power to reach the substantive issue of the fairness of any reduction in the

general public assistance he might have received if he had supplied the information. *Cruz v. District of Columbia Dep't of Human Servs.*, App. D.C., 479 A.2d 333 (1984).

### § 3-205.58. Consideration of additional information.

If the recipient submits additional information, the representative of the Mayor will give it due consideration to determine whether the information changes the Mayor's previous decision to reduce or terminate the assistance payment, and will notify the recipient accordingly, advising him or her of his or her right to a fair hearing. (Apr. 6, 1982, D.C. Law 4-101, § 558, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-205.59. Effect of pending hearing.

(a) If the recipient requests a hearing within 15 days from the date of postmark of the written notice, assistance shall not be discontinued, withheld, terminated, suspended, reduced or made subject to additional conditions, nor may the manner or form of payment be changed to a protective, vendor, or 2-party payment until: (1) The request for a hearing has been withdrawn; (2) a change affecting the recipient's grant occurs while the hearing is pending and the recipient fails to request a hearing after notice of the change; (3) a determination is made at the hearing that the sole issue is one of law and not of incorrect grant computation; or (4) a decision is rendered by the Mayor after a hearing and this decision upholds the Mayor in his or her action to alter the amount or conditions of the public assistance grant.

(b) A request by a recipient for a hearing made after the date upon which the action would become effective but within 10 days following this date shall result in reinstatement of assistance. In these cases, the Mayor shall reinstate assistance within 96 hours of the request for a hearing and assistance shall not be discontinued, withheld, terminated, suspended, reduced or made subject to additional conditions, nor may the manner or form of payment be changed to a protective, vendor, or 2-party payment until: (1) A determination is made at the hearing that the sole issue is one of law and not of incorrect grant computation; or (2) a decision is rendered by the Mayor after a hearing and this decision upholds the Mayor in his or her action to alter the amount or conditions of the public assistance grant.

(c) In any case in which action was taken without timely notice and the recipient requests a hearing within 10 days of the postmark of the written notice of the action, the Mayor shall reinstate assistance within 96 hours of the request for a hearing and assistance shall not be discontinued, withheld, terminated, suspended, reduced or made subject to additional conditions, nor may the manner or form of payment be changed to a protective, vendor, or 2-party payment until: (1) A determination is made at the hearing that the sole issue is one of law and not of incorrect grant computation; or (2) a decision is



rendered by the Mayor after a hearing and this decision upholds the Mayor in his or her action to alter the amount or conditions of the public assistance grant.

(d) A request for a hearing made more than 10 days after the date upon which the action would become effective but within the time limits of § 3-210.9 shall be honored but shall not result in the continuation of disputed benefits. If the claimant's position is upheld by the hearing decision, the Mayor shall promptly make corrective payments retroactively to the date the incorrect action was taken. (Apr. 6, 1982, D.C. Law 4-101, § 559, 29 DCR 1060; Sept. 10, 1985, D.C. Law 6-35, § 2(l), 32 DCR 3778.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 6-35.** — See note to § 3-202.5.

**Editor's notes.** — Near the beginning of the first sentence of subsection (d), "days" was inserted following "10," to correct an apparent omission in D.C. Law 6-35.

### § 3-205.60. Benefits pending hearing.

Repealed. Sept. 10, 1985, D.C. Law 6-35, § 2(m), 32 DCR 3778.

**Legislative history of Law 6-35.** — See note to § 3-202.5.

## *Subchapter VI. Emergency Public Assistance.*

### § 3-206.1. Authorized; limitation.

The Mayor may grant emergency public assistance pending completion of investigation when eligibility has been established pursuant to § 3-205.1; provided, that such emergency assistance shall not be granted in any case for a period exceeding 30 days. (Apr. 6, 1982, D.C. Law 4-101, § 601, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-206.2. Crisis Assistance and Service Program.

The Mayor, in administering the Crisis Assistance and Service Program, shall claim federal financial participation to the extent allowable by law for assistance and services to needy families with children, provided the family has not received assistance from any emergency program for more than 30 consecutive days within the last 12 months and provided the crisis did not arise because the child, parent, or other relative refused without good cause to accept employment or training for employment. (Apr. 6, 1982, D.C. Law 4-101, § 602, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-206.3. Emergency Shelter Family Services Program.**

(a) The Mayor is authorized to operate an Emergency Shelter Family Program, which shall claim federal financial participation to the extent allowable by law for housing assistance and services to homeless families with minor children. Homeless families with minor children shall not be required, requested, or encouraged to separate in order to be eligible for emergency shelter housing assistance or services under this chapter.

(b)(1) Beginning no later than 1 year from March 11, 1988, the Mayor shall establish and maintain, through the purchase of, lease of, or construction of 1 or more buildings, a sufficient number of emergency shelter family housing units for homeless families with minor children. Each homeless family shall be required, upon entry into the emergency shelter family housing unit, to sign an emergency shelter family housing resident contract, which sets forth the conditions for living in that housing unit as well as the rights and responsibilities of the adult members of the emergency shelter family and the District of Columbia government. The emergency shelter housing resident contract shall be explained orally to the adult members of the emergency shelter family by the Mayor prior to being signed. Each emergency shelter family housing unit shall be supervised apartment-style housing with:

(A) Separate cooking facilities and other basic necessities to enable the homeless family to prepare and consume meals;

(B) Bathroom facilities for the exclusive use of the homeless family;

(C) Separate sleeping quarters for adults and minor children in accordance with the regulation codified at § 1813.6 of Title 14 of the District of Columbia Municipal Regulations; and

(D) Access to immediate outdoor areas equipped with basic facilities for exercise and play for use by minor children residing in the emergency shelter family housing unit.

(2) Each emergency shelter family housing unit shall be in substantial compliance with all rules, regulations, and orders codified at Title 14 of the District of Columbia Municipal Regulations as of March 11, 1988, including the provision of section 1813 pertaining to the assignment of units appropriate for family size.

(3) The Mayor shall not place homeless families in congregate shelters. For purposes of this section, "congregate shelter" means a facility with 1 or more of the following characteristics:

(A) Sleeping arrangements where different families share a common sleeping area or have individual cubicles that do not have floor to ceiling dividers and a door that can be locked; or

(B) No private bathing or toilet facilities as prescribed by 14 DCMR § 401.2 or arrangements where more than 6 individuals share a bathtub, shower, or toilet as prescribed by 14 DCMR § 602.2 (1967).

(c)(1) The Mayor shall provide emergency shelter family housing services and, beginning 2 years from March 11, 1988, emergency shelter family housing services shall be provided for no more than 90 consecutive calendar days to a homeless family, except as provided in paragraph (2) of this subsection.

(2) The Mayor may grant extensions of up to 30 calendar days each to a homeless family if mitigating circumstances or a justifiable public purpose is determined to exist. The Mayor shall grant extensions as necessary whenever the Mayor is unable to identify and obtain permanent housing for the homeless family in accordance with subsection (h) of this section.

(3) The Mayor shall provide notice to each family at least 1 month prior to any termination of services provided under this section.

(d) The Mayor may decline to provide services under this section if:

(1) The homeless family has been evicted from previous housing because a parent or other adult member of the family refused without good cause to accept employment or training for employment and continues to do so, provided that housing shall not be withheld under this subsection from infant and minor members of the family or adult members of the family who have either accepted employment or training for employment or who have not been offered employment or training for employment; or

(2) A parent or other adult member of the homeless family has not substantially complied with the terms of the emergency shelter family housing resident contract.

(e)(1) Under guidelines established pursuant to subsection (1) of this section, the Mayor shall require homeless families who are not receiving AFDC, and who have been placed in emergency shelter family housing for more than 30 consecutive calendar days and who have the ability to pay, to pay a reasonable monthly fee in an amount up to 30% of the homeless family's monthly gross income after adjustments such as deductions for work and child care expenses.

(2) The monthly fee authorized by this subsection shall not constitute rent, and shall be collected by the Mayor and deposited in an interest-bearing escrow account in the name of the homeless family for use by the homeless family in securing permanent housing. Sums paid into the escrow account shall be returned to the family when the family leaves the program.

(3) Repealed.

(f)(1) During a homeless family's stay in emergency shelter family housing, the Mayor shall assist the homeless family in obtaining permanent housing, including:

(A) Screening the homeless family to determine the homeless family's eligibility for all applicable federal and District housing programs and services;

(B) Assisting the homeless family in completing the required application procedures for all applicable federal and District housing programs;

(C) Whenever possible, expediting the homeless family's receipt of housing subsidies under applicable federal and District housing programs; and

(D) Assisting the homeless family in contacting and making application for available housing units from private-sector housing providers.

(2) Adult members of the homeless family shall search for permanent housing on their own initiative.



(g) Beginning 1 year from March 11, 1988, the Mayor shall not place a homeless family with minor children in a hotel, motel, or other similar shelter unless:

(1) Unforeseen circumstances leave no acceptable alternative that is in the best interest of the homeless family including minor children; and

(2) The placement is for no longer than 15 calendar days, provided that this section shall not be construed to require or authorize the refusal to house or the displacement of any family otherwise entitled to shelter.

(h)(1) If a homeless family has not found permanent housing within 90 days after receiving housing subsidy certification under any applicable federal or District housing program, the homeless family shall accept permanent housing that has been identified and obtained by the Mayor on the family's behalf and that is decent, sanitary, secure, provides the essential amenities necessary to establish a permanent household, and in substantial compliance with the Housing Regulations of the District of Columbia. A homeless family may appeal its acceptance of the permanent housing pursuant to procedures established under subsection (l) of this section.

(2) A homeless family not eligible for any federal or District housing subsidy or other housing assistance shall accept permanent housing that has been identified and obtained by the Mayor on the family's behalf and that is decent, sanitary, secure, provides the essential amenities necessary to establish a permanent household, and in substantial compliance with the Housing Regulations of the District of Columbia. A homeless family may appeal its acceptance of the permanent housing pursuant to procedures established under subsection (l) of this section.

(i) The Mayor shall establish 2 resource centers, with 1 center to be located in the area east of the Anacostia River in the District of Columbia, which shall offer home maintenance counseling classes, and simultaneously provide a systematic program of employment counseling, employment training, remedial education, mental health counseling, or other types of social services for a period of 180 days or longer to assist adult members of the family achieve independence from public assistance. Where appropriate, following a case assessment, these social services or classes shall be provided to each family member during hours when he or she is not employed or going to or from a place of employment. The classes shall be provided in both English and Spanish and shall include the following subjects:

- (1) Maintaining a household in a clean and sanitary condition;
- (2) Proper maintenance of appliances such as stoves and refrigerators;
- (3) Utility cost-saving measures such as heat and cooling conservation;
- (4) Family counseling; and
- (5) Financial management emphasizing rent payment on a consistent and timely basis.

(j) The Mayor shall establish standards for payments to vendors for emergency shelter family housing, which shall not exceed the amount by unit size established under § 45-2533(b).

(k) In accordance with the provisions of Chapter 11A of Title 1, the Mayor may enter into contracts with not-for-profit organizations and private busi-

ness entities for the provision of emergency shelter housing services established pursuant to this section. The Mayor shall give priority to not-for-profit organizations.

(l) The Mayor shall issue proposed rules, pursuant to subchapter I of Chapter 15 of Title 1, to implement the provisions of the Emergency Shelter Services for Families Reform Amendment Act of 1987. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed effective. Nothing in this subsection shall effect any requirements imposed upon the Mayor by subchapter I of Chapter 15 of Title 1.

(m) Section 3-206.1 shall not apply to this section.

(n) A homeless family shall be entitled to a hearing process pursuant to procedures established under subsection (l) of this section for any action of the Mayor that affects the receipt, termination, or conditions of services under this chapter. A homeless family shall not be deprived of emergency shelter housing prior to the rendering of a decision following a hearing. (Apr. 6, 1982, D.C. Law 4-101, § 603, 29 DCR 1060; Mar. 11, 1988, D.C. Law 7-86, § 2(b), 35 DCR 140; Mar. 16, 1989, D.C. Law 7-204, § 6, 36 DCR 454; Mar. 6, 1991, D.C. Law 8-197, § 3, 37 DCR 4815.)

**Section references.** — This section is referred to in § 3-205.52.

**Temporary amendments of section.** — Section 2 of D.C. Law 9-235 amended (g)(2) to read as follows:

"(2) The placement is for no longer than 90 calendar days, provided that this section shall not be construed to require or authorize the refusal to house or the displacement of any family otherwise entitled to shelter."

Section 3(b) of D.C. Law 9-235 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the Public Assistance Shelter Days Amendment Act of 1992, whichever occurs first.

**Emergency act amendments.** — For temporary amendment of section, see § 2 of the Public Assistance Shelter Days Emergency Amendment Act of 1992 (D.C. Act 9-333, December 18, 1992, 40 DCR 9).

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 7-86.** — See note to § 3-206.6.

**Legislative history of Law 7-204.** — Law 7-204, the "Frigid Temperature Protection Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-401, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-275

and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-197.** — See note to § 3-206.9.

**Legislative history of Law 9-235.** — Law 9-235, the "Public Assistance Shelter Days Temporary Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-723. The Bill was adopted on first and second readings on December 1, 1992, and December 15, 1992, respectively. Signed by the Mayor on December 31, 1992, it was assigned Act No. 9-366 and transmitted to both Houses of Congress for its review. D.C. Law 9-235 became effective on March 17, 1993.

**References in text.** — The "Emergency Shelter Services for Families Reform Amendment Act of 1987," referred to in subsection (l) of this section, is D.C. Law 7-86.

**Mayor's reports.** — Section 4 of Law 7-86 provided that within 180 days of March 11, 1988, the Mayor shall transmit to the Council a written report describing specific plans and timetables for implementing the provisions of this act. The Mayor shall transmit to the Council an annual updated written report regarding the status of the Emergency Shelter Family Program.

**Delegation of Authority Pursuant to D.C. Law 7-204, the "Frigid Temperature Protection Amendment Act of 1988".** — See Mayor's Order 89-123, June 2, 1989.

**Declaration of an Emergency With Re-**

spect to the Urgent Need to Provide Permanent Housing for the Homeless in the District of Columbia. — See Mayor's Order 89-204, September 8, 1989.

Delegation of authority pursuant to D.C. Law 7-86, the "Emergency Shelter Services for Families Reform Amendment Act of 1987" (4-101). — See Mayor's Order 90-148, October 31, 1990.

Emergency procurement to provide temporary housing for homeless families in the District of Columbia. — See Mayor's Order 91-68, May 6, 1991.

Editor's notes. — References to §§ 5113.6

and 5113 of Title 14 of the District of Columbia Municipal Regulations, appearing in (b)(1)(C) and (b)(2), have been translated to 1813.6 and 1813, respectively to update references appearing in D.C. Law 7-86.

Emergency legislation. — Emergency legislation, that amended both the Overnight Shelter Act and the Family Shelter Act, the former of which was adopted by an initiative, was an appropriate exercise of the power of the Council of the District. *Atchison v. District of Columbia*, App. D.C., 585 A.2d 150 (1991).

Cited in *Fountain v. Kelly*, App. D.C., 630 A.2d 684 (1993).

### § 3-206.4. Family Emergency Services Program.

The Mayor, in administering the Family Emergency Services Program, shall claim federal financial participation to the extent allowable by law for assistance and services to needy families with children, provided the family has not received assistance from any emergency program for more than 30 consecutive days within the last 12 months, and provided the emergency did not arise because the child, parent, or other relative refused without good cause to accept employment or training for employment. (Apr. 6, 1982, D.C. Law 4-101, § 604, 29 DCR 1060.)

Legislative history of Law 4-101. — See note to § 3-201.1.

### § 3-206.5. Emergency shelter allowances.

The Mayor, in providing emergency shelter allowances to families who are receiving Aid to Families with Dependent Children to enable them to obtain public housing, shall claim federal financial participation to the extent allowable by law, provided the family has not received assistance from any emergency program for more than 30 consecutive days within the last 12 months. (Apr. 6, 1982, D.C. Law 4-101, § 605, 29 DCR 1060.)

Legislative history of Law 4-101. — See note to § 3-201.1.

### § 3-206.6. Application.

To the extent that there is any conflict between the provisions of subchapter V of Chapter 25 of Title 45, and the Emergency Shelter Services for Families Reform Amendment Act of 1987 regarding a homeless family receiving shelter services, the provisions of the Emergency Shelter Services for Families Reform Amendment Act of 1987 shall apply. (Mar. 11, 1988, D.C. Law 7-86, § 3, 35 DCR 140.)



**Legislative history of Law 7-86.** — Law 7-86, the "Emergency Shelter Services for Families Reform Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-224, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 10, 1987 and November 24, 1987, respectively.

Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-123 and transmitted to both Houses of Congress for its review.

**Reference in text.** — The "Emergency Shelter Services for Families Reform Amendment Act of 1987," referred to twice in this section, is D.C. Law 7-86.

### § 3-206.7. Mayor's report.

Within 180 days of March 11, 1988, the Mayor shall transmit to the Council a written report describing specific plans and timetables for implementing the provisions of the Emergency Shelter Services for Families Reform Amendment Act of 1987. The Mayor shall transmit to the Council an annual updated written report regarding the status of the Emergency Shelter Family Program. (Mar. 11, 1988, D.C. Law 7-86, § 4, 35 DCR 140.)

**Legislative history of Law 7-86.** — See note to § 3-206.6.

**Reference in text.** — The Emergency Shel-

ter Services for Families Reform Amendment Act of 1987, referred to in the first sentence, is D.C. Law 7-86.

### § 3-206.8. Construction.

Nothing in the Emergency Shelter Services for Families Reform Amendment Act of 1987 shall be construed to repeal or amend Chapter 6 of Title 3. (Mar. 11, 1988, D.C. Law 7-86, § 5, 35 DCR 140.)

**Legislative history of Law 7-86.** — See note to § 3-206.6.

**Reference in text.** — The Emergency Shel-

ter Services for Families Reform Amendment Act of 1987 is D.C. Law 7-86.

### § 3-206.9. No creation of entitlement.

(a) Nothing in this subchapter shall be construed to create an entitlement in any homeless person or family to emergency shelter or support services.

(b) The provision of emergency shelter and support services in accordance with this subchapter shall not be construed to require the provision of transportation to or from an emergency overnight shelter or any other services not specifically provided for in this act. (Mar. 11, 1988, D.C. Law 7-86, § 3a, as added Mar. 6, 1991, D.C. Law 8-197, § 4, 37 DCR 4815.)

**Legislative history of Law 8-197.** — Law 8-197, the "District of Columbia Emergency Overnight Shelter Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-156, which was referred to the Committee on Human Services. The Bill was adopted

on first and second readings on June 12, 1990, and June 26, 1990, respectively. Signed by the Mayor on July 12, 1990, it was assigned Act No. 8-228 and transmitted to both Houses of Congress for its review.

*Subchapter VII. Complementary Program Relationships with Public Assistance Programs.*

**§ 3-207.1. Policy.**

It is the policy of the District to provide nonduplicative assistance to low-income families with dependent children. Such assistance shall not be deducted in determining the amount of assistance to be paid to recipients of AFDC. (Apr. 6, 1982, D.C. Law 4-101, § 701, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-207.4.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-207.2. Authority to establish.**

The Mayor shall establish, in accordance with federal rules, complementary program relationships to assist low-income families with dependent children. (Apr. 6, 1982, D.C. Law 4-101, § 702, 29 DCR 1060.)

**Section references.** — This section is referred to in §§ 3-207.3 and 3-207.4.

**Delegation of authority pursuant to Law 4-101.** — See Mayor's Order 86-26, February 6, 1986.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-207.3. Rules.**

The Mayor shall take such actions as necessary to implement § 3-207.2, and shall issue rules to implement this chapter. These rules shall be submitted to the Council for review within 30 days of April 6, 1982, and the Council may approve or disapprove these rules and regulations by resolution within 30 days of the date of submission by the Mayor. Prior to such Council action, the Mayor may issue emergency rules and regulations in accordance with § 1-1506 to implement this subchapter. Approval by the Council of the rules submitted to it shall operate to terminate the effectiveness of the emergency rules. (Apr. 6, 1982, D.C. Law 4-101, § 703, 29 DCR 1060; Mar. 14, 1985, D.C. Law 5-150, § 3, 31 DCR 6425.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Delegation of authority pursuant to Law 4-101.** — See Mayor's Order 86-26, February 6, 1986.

**Legislative history of Law 5-150.** — See note to § 3-205.5.

**§ 3-207.4. Appropriations.**

There is authorized to be appropriated such funds as may be necessary to implement §§ 3-207.1 and 3-207.2. (Apr. 6, 1982, D.C. Law 4-101, § 704, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### *Subchapter VIII. Award; Method of Payment.*

#### **§ 3-208.1. Determination by Mayor; method of payment.**

(a) Upon completion of the investigation pursuant to subchapter IX of this chapter, the Mayor shall determine whether the applicant is eligible for public assistance, the type and amount of public assistance for which he or she is eligible, and the date from which this public assistance shall begin, and shall furnish public assistance with reasonable promptness to all eligible persons. For the GPA or GAC program, that date shall not be prior to the first day of the calendar month in which the determination is made except that as a result of reconsideration or review of a case, and in order to correct previous erroneous administrative action, such as undue delay or improper denial of assistance, an initial payment of GPA or GAC may be made for a period beginning prior to the first day of the calendar month in which the eligibility determination is made. For the AFDC program, an application for assistance shall be effective on the date that the application is filed. The amount payable for the initial month shall be prorated by multiplying the amount payable if payment were made for the entire month by the ratio of the days in the month including and following the date of application to the total number of days in a month. For the purpose of this computation, all months shall be considered to have 30 days.

(b) Money payments of public assistance shall be made by check, except that in emergency cases money payments of public assistance may be made in cash, and to accomplish such purpose the Mayor may make necessary provisions for advancing from time to time to 1 or more officers or employees of the District such sum or sums as the Mayor may determine; provided, that no such advance shall be made to any such officer or employee who has not been previously bonded in such amount and form as the Mayor shall determine. (Apr. 6, 1982, D.C. Law 4-101, § 801, 29 DCR 1060; Mar. 14, 1984, D.C. Law 5-53, § 2(c), 30 DCR 6278; Sept. 10, 1985, D.C. Law 6-35, § 2(n), 32 DCR 3778; Aug. 17, 1991, D.C. Law 9-19, title I, § 101(i), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-27, § 2(i), 38 DCR 4205.)

**Effect of amendments.** — D.C. Law 9-27 in (a), inserted "or GAC" after "GPA".

**Temporary amendments of section.** — Section 101(i) of D.C. Law 9-19 inserted "or GAC" following "GPA" in the second sentence of (a).

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 101(i) of the Omnibus Budget Support Emergency Act of 1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390).

For temporary amendment of section, see § 101(i) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 5-53.** — See note to § 3-208.5.

**Legislative history of Law 6-35.** — See note to § 3-202.5.

**Legislative history of Law 9-19.** — See note to § 3-205.5a.

**Legislative history of Law 9-27.** — See note to § 3-205.5a.



**§ 3-208.2. Supplemental payments.**

The Mayor may authorize a supplemental payment when necessary to meet the needs of its clients, according to established budget standards. A supplemental payment is defined as the 2nd payment to a recipient of public assistance for the same month. (Apr. 6, 1982, D.C. Law 4-101, § 802, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-208.3. Underpayment corrections.**

When a recipient of public assistance receives a payment or series of payments in an amount less than that to which he is entitled, or does not receive payments to which he is entitled, the underpayment shall be corrected retroactively to the date the underpayment first occurred. (Apr. 6, 1982, D.C. Law 4-101, § 803, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-208.4. Amount of assistance payable.**

The amount of assistance payable to public assistance recipients other than AFDC recipients shall be the exact amount in dollars and cents to which the individual or family is entitled. The amount of assistance payable to AFDC recipients shall be the amount to which the individual or family is entitled rounded down, when not a whole dollar amount, to the next lower whole dollar amount. (Apr. 6, 1982, D.C. Law 4-101, § 804, 29 DCR 1060; Mar. 14, 1984, D.C. Law 5-53, § 2(b), 30 DCR 6278.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 5-53.** — See note to § 3-208.5.

**§ 3-208.5. Repayment by GPA recipient.**

(a) For any month in which a GPA recipient receives both GPA and Supplemental Security Income (SSI), the GPA recipient shall repay to the District of Columbia:

(1) The entire GPA monthly assistance payment if the SSI benefits received equaled or exceeded the GPA payment; or

(2) That portion of the GPA monthly assistance payment equal in amount to the SSI benefits received if the SSI benefits received were less than the GPA payment.

(b) In order to make repayment in accordance with subsection (a) of this section, a GPA recipient who applies or has applied for SSI must agree to have the initial SSI benefit forwarded directly to the Department of Human Services.

(c) Upon receipt of a GPA recipient's initial SSI benefit, the Department shall calculate, in accordance with subsection (a) of this section, the amount of the benefit due to the Department as repayment and the amount, if any, due the GPA recipient. The Department shall provide the GPA recipient with a written explanation of this calculation and shall pay any amount due the GPA recipient, in accordance with 42 U.S.C. § 1383 (g) and SSA Interim Assistance Provisions, 20 C.F.R. § 416.1901 to 416.1922 (1983).

(d) The Department shall continue to provide a GPA monthly assistance payment to a GPA recipient whenever:

(1) The GPA recipient's initial SSI benefit includes an SSI payment for that month; and

(2) The Department has received the GPA recipient's initial SSI benefit but has not yet provided the GPA recipient with the explanation and payment required by subsection (c) of this section. (Apr. 6, 1982, D.C. Law 4-101, § 805, as added Mar. 14, 1984, D.C. Law 5-53, § 2(d), 30 DCR 6278.)

**Legislative history of Law 5-53.** — Law 5-53, the "Public Assistance Act of 1982 Amendments Act of 1983," was introduced in Council and assigned Bill No. 5-92, which was referred to the Committee on Human Services. The Bill was adopted on first and second read-

ings on November 1, 1983, and November 15, 1983, respectively. Signed by the Mayor on November 21, 1983, it was assigned Act No. 5-79 and transmitted to both Houses of Congress for its review.

### *Subchapter IX. Investigation of Applicants; Issuance of Identification Card; Check Distribution.*

#### **§ 3-209.1. Investigation of applicants; issuance of identification cards; distribution of checks.**

(a) Whenever the Mayor shall receive an application for public assistance, he or she shall promptly make an investigation and record of the circumstances of the applicant in order to ascertain the facts supporting the application and to obtain such other information as he or she may require.

(b) After determining that a person is eligible to receive public assistance, the Mayor shall issue to such person a public assistance identification card which shall be used by such person in obtaining any public assistance, and as a means of identifying him or her as the proper recipient of such public assistance. The public assistance identification card shall contain the name, social security number, and account or case number of the recipient to whom such card was issued.

(c) The Mayor may by rule prescribe additional uses and requirements with respect to the issuance and use of the public assistance identification card as he or she deems necessary. Nothing in this section shall be construed to require recipients of public assistance to receive their monthly allotment checks in person at 1 central location. The Mayor shall by rule establish such means of distribution of such checks which, utilizing the public assistance identification card, will insure the least amount of fraud and loss of such checks without unduly burdening the recipients of such checks. (Apr. 6, 1982, D.C. Law 4-101, § 901, 29 DCR 1060.)

Legislative history of Law 4-101. — See note to § 3-201.1.

**§ 3-209.2. Adverse action not permitted for refusal to allow entry into home or permit inspection thereof.**

The Mayor, in establishing initial or continuing eligibility for public assistance, shall take no adverse action against any applicant or recipient who refuses to admit any representative of the Mayor into the applicant's or recipient's home, or who, upon admitting representatives of the Mayor into the applicant's or recipient's home, refuses to permit representatives of the Mayor to inspect the dwelling. (Apr. 6, 1982, D.C. Law 4-101, § 902, 29 DCR 1060.)

Legislative history of Law 4-101. — See note to § 3-201.1.

**§ 3-209.3. Notification of adverse action not permitted.**

All recipients and applicants shall be informed at the time of application, orally and in writing and at least annually thereafter in writing, that no adverse action of any kind will be taken against them for refusing to permit representatives of the Mayor to enter the applicant's or recipient's home or to inspect the premises. (Apr. 6, 1982, D.C. Law 4-101, § 903, 29 DCR 1060.)

Legislative history of Law 4-101. — See note to § 3-201.1.

*Subchapter X. Hearing Procedures.*

**§ 3-210.1. Right to hearing; notification of right.**

An applicant for, or recipient of, public assistance aggrieved by the action or inaction of the Mayor shall be entitled to a hearing. Each applicant or recipient shall be notified of his or her rights to a hearing. Upon request for such hearing, reasonable notice of the time and place thereof shall be given to such applicant or recipient. Such hearing shall be conducted in accordance with the provisions of this subchapter. The findings of the Mayor on any appeal shall be final. (Apr. 6, 1982, D.C. Law 4-101, § 1001, 29 DCR 1060.)

Legislative history of Law 4-101. — See A.2d 101, cert. denied, — U.S. —, 111 S. Ct. 341, 112 L. Ed. 2d 306 (1990).  
Cited in Schlank v. Williams, App. D.C., 572

**§ 3-210.2. Grounds; objectives of hearing process.**

(a) The Mayor, upon receipt of an application made pursuant to § 3-210.5, shall grant a fair hearing to any applicant for or a recipient of public assistance whose claim for assistance has been denied or has not been acted upon within a reasonable time not to exceed 30 days; or who is aggrieved by any



other action or inaction of the Mayor which affects the receipt, termination, amount, kind, or conditions of his assistance.

(b) The following are the major objectives of the hearing process in public assistance:

(1) To enable the Mayor and the claimant to ascertain jointly the factual basis on which, through proper application of the assistance law and agency policies, a just and equitable decision may be reached;

(2) To safeguard applicants and recipients from mistaken, negligent, unreasonable, or arbitrary action by agency staff; and

(3) To reveal aspects of agency policy that are inequitable or constitute a misconstruction of law. It is intended to submit policy to test and argument, and to place in the hands of policy-making officials evidence indicating the need for modification of policies and standards, and the nature of the needed modification.

(c) A hearing need not be granted when either District or federal law requires automatic grant adjustments for classes of recipients of AFDC, GPA, or GAC unless the reason for an individual appeal is incorrect computation of the grant. (Apr. 6, 1982, D.C. Law 4-101, § 1002, 29 DCR 1060; Aug. 17, 1991, D.C. Law 9-19, title I, § 101(j), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-27, § 2(j), 38 DCR 4205.)

**Effect of amendments.** — D.C. Law 9-27, in (c), inserted ", GPA, or GAC" after "AFDC".

**Temporary amendments of section.** — Section 101(j) of D.C. Law 9-19 in (c), inserted "GPA or GAC" following "AFDC".

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 101(j) of the Omnibus Budget Support Emergency Act of 1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390).

For temporary amendment of section, see § 101(j) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 9-19.** — See note to § 3-205.5a.

**Legislative history of Law 9-27.** — See note to § 3-205.5a.

**Notice of hearing.** — Subsection (c) of this section read in tandem with the requirement of § 3-205.55(c) that the notice provide a statement of the circumstances under which a hearing may be obtained requires only that the district inform AFDC recipients that a personalized hearing will not result in any modification of the change effectuated by the Public Assistance Act of 1982 Budget Conformity Amendment Act of 1991. *Baugh v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 120 WLR 175 (Super. Ct. 1992).

### § 3-210.3. Hearing officers.

(a) All hearings relating to individual appeals shall be conducted by properly designated hearing officers. Hearing officers are directly responsible to the Mayor in carrying out their duties.

(b) The Mayor shall designate other Department personnel to serve as hearing officers when regular hearing officers are absent or when the number of requests for hearings are too numerous to be expedited by the regular hearing officers. Hearing officers shall be selected from personnel who are not connected with public assistance activity or otherwise involved with the implementation of the public assistance program and shall be directly responsi-

ble to the Mayor in carrying out the duties of the hearing officer. (Apr. 6, 1982, D.C. Law 4-101, § 1003, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-210.4. Notification of right to request hearing and method of making request.

(a) Written and oral information regarding the right to request a hearing and the method of making such request shall be furnished by the Mayor to each public assistance applicant or recipient at the time of application and whenever the Mayor notifies the applicant or recipient that it intends to take action which may or will adversely affect him or her or his or her benefits, including changes in or terminations of assistance payments. Such written and oral notice shall include information that the claimant has the right to be represented by legal counsel or by a lay person who is not an employee of the District; that he may bring witnesses in his or her behalf; that reasonable expenses related to the hearing, such as transportation costs for the claimant and his or her witnesses, will be paid by the Mayor, and that legal services as described in ~~S.E. 9.1 of the District of Columbia Handbook of Public Assistance Policies and Procedures~~ are available to the claimants.

(b) A copy of the rules relating to hearing procedures will be furnished to all claimants at the time a hearing is requested pursuant to § 3-210.5. (Apr. 6, 1982, D.C. Law 4-101, § 1004, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-210.9.

**Cited in** Baugh v. District of Columbia Dep't of Consumer & Regulatory Affairs, 120 WLR 175 (Super. Ct. 1992).

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-210.5. Request for hearing.

Any applicant or recipient, or his or her representative may request a hearing by giving a clear expression, oral or written, that he or she wants an opportunity to present his or her case to a higher authority. A request for a hearing shall be accepted by any administrative staff member employed by the Mayor to whom the request is submitted. The Mayor shall acknowledge promptly any request for a hearing, and a representative of the Mayor shall assist the claimant in submitting and processing his request for hearing. The Mayor shall treat a request made by a representative of the claimant as if made by the claimant; provided, that the claimant shall submit written authorization within 10 days of such request designating that person as his or her representative. (Apr. 6, 1981, D.C. Law 4-101, § 1005, 29 DCR 1060.)

**Section references.** — This section is referred to in §§ 3-210.2 and 3-210.4.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-210.6. Hearing involving medical issues.

When the hearing involves medical issues, the medical assessment of the claimant's condition must be made by a medical authority other than the persons who made the original medical determination if the hearing officer or the claimant considers an additional examination necessary. The additional medical assessment shall be limited to one assessment which shall be obtained at agency expense, and, when requested by the claimant, shall be obtained from a medical source satisfactory to the claimant. (Apr. 6, 1982, D.C. Law 4-101, § 1006, 29 DCR 1060; Aug. 17, 1991, D.C. Law 9-19, title I, § 101(k), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-27, § 2(k), 38 DCR 4205.)

**Effect of amendments.** — D.C. Law 9-27, substituted "person" for "persons" in the first sentence; and substituted "The additional medical assessment shall be limited to one assessment which" for "such an additional medical assessment" in the second sentence.

**Temporary amendments of section.** — Section 101(k) of D.C. Law 9-19 substituted "The additional medical assessment shall be limited to one assessment which" for "Such an additional assessment" in the second sentence.

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For tem-

porary amendment of section, see § 101(k) of the Omnibus Budget Support Emergency Act of 1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390).

For temporary amendment of section, see § 101(k) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 9-19.** — See note to § 3-205.5a.

**Legislative history of Law 9-27.** — See note to § 3-205.5a.

### § 3-210.7. Procedures for administrative review of request.

The Mayor shall establish procedures for administrative review of every request for a hearing. The purpose of such review shall be ascertainment of the validity of the Mayor's position, and, if possible, achievement of an informal solution of the claim. Such procedures shall include:

(1) Notice to the claimant at the time of adverse agency action, including the decision to take future action, of his or her right to a fair hearing and to administrative review of that action, and notice that he or she may be represented at the hearing or the administrative review either by an attorney or lay person; provided, that such representative shall serve only in an advisory capacity to the claimant at the administrative review;

(2) Notice to the claimant of the time and place of such review;

(3) Notice to the claimant of the purpose of such review;

(4) Notice to the claimant that such review will not be made unless he appears, but that his failure to appear will not affect his or her right to the hearing he or she has previously requested;

(5) Notice to the claimant of the result of such review;

(6) Advice to the claimant that, if the result of such review is not satisfactory to him, the hearing which he previously requested will be held; and

(7) Advice to the claimant that, if he or she is satisfied with the result of such review, his or her request for a hearing will be considered formally withdrawn, and that he or she may be required to sign a statement confirming such withdrawal. (Apr. 6, 1982, D.C. Law 4-101, § 1007, 29 DCR 1060.)



**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-210.8. Time, date, and place of hearing.

The hearing shall be held at a time, date, and place designated by the Mayor's agent. Adequate notice shall be given the claimant and his or her representative, including such information concerning hearing procedures as may be necessary for his or her effective preparation therefor. If the claimant shall notify the Mayor's agent that either the time or place designated by the Mayor's agent is not convenient to him or her and requests a new time or place for such hearing, the hearing officer shall designate another time or place which is convenient to the claimant if he or she deems the claimant has sufficient reason for so requesting a change. (Apr. 6, 1982, D.C. Law 4-101, § 1008, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-210.9. Time limit on requests.

(a) A request for a hearing to review adverse action by the Mayor concerning any new application for public assistance or any application or request for a change in the amount, kind, or conditions of public assistance must be made within 90 days following the postmark of the notification to the applicant or recipient, pursuant to § 3-210.4, of such adverse action by the Mayor and of his or her right to a hearing with respect to that action.

(b) A request for a hearing to review a decision by the Mayor to terminate, reduce, or change the amount, kind, or conditions of public assistance benefits, or to take other action adverse to the recipient must be made within 90 days following the postmark of notice from the Mayor of his or her intention to make such change or take such action.

(c) A request for a hearing must be granted by the Mayor. A time and place shall be designated for such hearing and the applicant shall be notified of such time and place within 5 days of this request for a hearing. Hearing shall be held within a reasonably short time following the request, such time not to exceed 45 days following the initial request for a hearing. (Apr. 6, 1982, D.C. Law 4-101, § 1009, 29 DCR 1060; Sept. 10, 1985, D.C. Law 6-35, § 2(o), 32 DCR 3778.)

**Section references.** — This section is referred to in § 3-205.59.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 6-35.** — See note to § 3-202.5.

**§ 3-210.10. Hearing procedure enumerated.**

The hearing officer shall conduct the hearing in such a manner as to insure that both the claimant and the Mayor's agent have the opportunity to present all facts which in their judgment have a bearing on the hearing, and have adequate opportunity to examine material that will be introduced as evidence. He or she shall cause the pertinent proceedings to be taken down and transcribed. He or she shall allow the individual, or his or her counsel, to examine and cross-examine and to present oral argument and documentary evidence. He or she shall permit the Mayor to introduce such evidence from the case record or other data secured by special investigation as pertains to the case, providing that such data is also made available to the claimant or his or her representative. If data from a special investigation is used, the claimant or his or her representative shall have the opportunity to examine the Mayor's agent's investigator who performed such investigation and to inspect and use for the purpose of cross-examination any data, document, or record secured by the Mayor's agents having any bearing on the matter involved or in the decision giving rise to the hearing. If data from the case record is used, the claimant, or his or her representative, shall be allowed to inspect the case record for the purpose of discovering information favorable to the claimant's case. The Mayor's agents shall not be represented by an attorney at any hearing or administrative review in which the claimant is not represented by an attorney. (Apr. 6, 1982, D.C. Law 4-101, § 1010, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-210.11. Findings, conclusions, and recommendations by hearing officer.**

(a) The hearing officer shall prepare a written summary of findings and conclusions based exclusively on the evidence presented at the hearing and shall make appropriate recommendations based upon his or her findings and conclusions. The summary of findings and conclusions shall state the policies, regulations, or laws upon which the hearing officer's recommendations are based. A verbatim transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, and the hearing officer's findings, conclusions, and recommendations will constitute the exclusive record for decision by the hearing authority, and will be available to the claimant at a place accessible to him or his representative at any reasonable time for a period not to exceed 2 years or until all litigation involving the decision is terminated. Nonrecorded or confidential information which the claimant does not have the opportunity to hear or see shall not be made a part of the hearing record nor used in a decision on the appeal.

(b) The hearing officer shall submit his or her written findings, conclusions, and recommendations, which shall at the same time be directly transmitted to the claimant, or his or her representative, with an explanation that such written findings, conclusions, and recommendations have been submitted to

the Mayor's agent and do not constitute the final decision of the Mayor's agent.

(c) If the hearing officer recommends that the action of the Mayor's agent be sustained, the claimant shall be notified that he or she has 10 days after he or she receives the findings, conclusions, and recommendations in which to submit to the hearing officer any newly-discovered evidence he or she has in support of his or her position, and any objections, corrections, or exceptions he has to the findings and recommendations, and any brief that he or she or his or her counsel or representative may desire to submit. Newly-discovered evidence and objections, corrections, or exceptions submitted by the claimant within the 10-day period shall be reviewed and considered by the hearing officer who shall submit a supplemental recommendation to the Mayor's agent to sustain or not to sustain the action of the Mayor. The hearing officer may, in his or her discretion, reconvene the hearing for the purpose of taking further evidence. When the hearing officer recommends that the action of the Mayor not be sustained, the hearing record when completed shall be forwarded immediately for the decision of the Mayor's agent. (Apr. 6, 1982, D.C. Law 4-101, § 1011, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-210.12. Final decision by Mayor's agent.

(a) The Mayor's agent shall render a final decision on the claimant's appeal no later than 60 days after the date of his or her initial request for a hearing. If, however, the date of the hearing is postponed at the claimant's request, or if the claimant submits new evidence following the close of his or her hearing, causing it to be reopened, the length of the postponement or the delay caused by the reopening may be added to the 60-day period.

(b) The Mayor's agent shall overrule the hearing officer in instances where he or she does not agree with findings, conclusions, or recommendations presented for decision. In such case, the reasons for the Mayor's agent's decision shall be specified in writing and shall be made a part of the hearing record.

(c) All decisions of the Mayor's agent shall be final and binding upon the Mayor and shall be put into effect immediately unless otherwise specifically indicated in the action. When the hearing decision is favorable to the claimant, or when the Mayor's agent decides in favor of the claimant prior to the hearing, the Mayor's agent shall authorize corrected payments retroactively to the date the incorrect action was taken. (Apr. 6, 1982, D.C. Law 4-101, § 1012, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-210.13.

**Legislative history of Law 4-101.** — See note to § 3-201.1.



### **§ 3-210.13. Notification of decision and right to judicial review.**

The Mayor's agent shall transmit his or her written decision and any further written statement required by § 3-210.12 to the claimant. If the decision is adverse to the claimant, the Mayor's agent shall notify him or her of his or her right to judicial review. (Apr. 6, 1982, D.C. Law 4-101, § 1013, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### **§ 3-210.14. Right to request hearing while absent from District.**

A recipient shall have the same right to a hearing while absent from the District that he or she had while living in the District. (Apr. 6, 1982, D.C. Law 4-101, § 1014, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### **§ 3-210.15. File of hearing decisions.**

The Mayor will maintain a file of all hearing decisions, with identifying information deleted, that will be accessible to claimants, their representatives, and other persons upon request to the Mayor. (Apr. 6, 1982, D.C. Law 4-101, § 1015, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### **§ 3-210.16. Class action permitted; correction or change in policy, construction, or interpretation.**

(a) Where a request for hearing has been made on an action taken by the Mayor, and the hearing officer finds that the issue or policy involved directly affects or will affect other recipients or claimants similarly situated, the hearing officer may, upon application by 1 of the recipients who is or will be so affected, allow a class action on behalf of the others similarly situated. The hearing officer, with the consent of the claimants, may consolidate hearings which present similar issues on his or her own motion or at the request of the claimants.

(b) Whenever a claimant challenges a departmental policy or the administrative construction or interpretation of relevant statutes, regulations, orders, or departmental directives, and his or her claim for relief is granted by the hearing officer and the Mayor's agent because of a misapplication of law contained in the policy, construction or interpretation, the Mayor will correct the challenged policy, construction or interpretation.

(c) Whenever the Mayor changes a policy, construction or interpretation, he or she shall immediately make a reasonable effort to find and notify all applicants and recipients affected thereby, and shall make appropriate adjustments in the welfare benefits or decisions of the Mayor which were based upon the erroneous policy or practice. (Apr. 6, 1982, D.C. Law 4-101, § 1016, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-210.17. Confidentiality.**

If the claimant waives in writing his or her privilege of confidentiality as to the hearing, he or she shall be permitted by the Mayor to invite to the hearing any reasonable number of members of the public as he deems appropriate; provided, that the hearing officer may, in his discretion, considering the space and seating capacity of the room in which the hearing is to be held, impose limitations on the number of persons allowed to attend the same. (Apr. 6, 1982, D.C. Law 4-101, § 1017, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-210.18. Notice provisions of § 3-205.54 applicable.**

When the reduction or termination is the result of information contained in a monthly report the recipient has filed, or of the recipient's failure to file a report, or file a complete report, under § 3-205.54, then the Mayor is required to follow the notice provisions of that section. (Apr. 6, 1982, D.C. Law 4-101, § 1018, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-210.19. Assistance received during pendency of decision.**

(a) Assistance under the GPA program received pending the decision of the Mayor's agent shall not be considered as an overpayment, whether or not the proposed action by the Mayor's agent is sustained.

(b) Assistance under the AFDC program received pending a hearing decision shall be considered as an overpayment if the proposed action to change or terminate benefits is sustained. (Apr. 6, 1982, D.C. Law 4-101, § 1019, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

*Subchapter XI. Miscellaneous Provisions  
Relating to Specific Payments.*

**§ 3-211.1. Home repairs — Run-down premises.**

The Mayor may authorize an expenditure for repairs to a home which a recipient of AFDC, GPA, and AB owns or is buying, when there has been no assignment or transfer to the District of such property, if:

(1) A determination has been made that:

(A) The home is so defective that continued occupancy is not warranted;

(B) Unless repairs are made the recipient would have to move to rental quarters; and

(C) The rental cost of quarters for the recipient and his family over a period of 2 years would exceed the cost of repairs needed to make the home habitable together with other costs attributable to continued occupancy of the home; and

(2) There has been no expenditure for repairs prior to the determination described in paragraph (1) of this section. (Apr. 6, 1982, D.C. Law 4-101, § 1101, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-211.2. Same — Protection of District interest.**

The Mayor may authorize an expenditure for repairs to a home which a recipient of OAA, APTD, and AB owns or is buying, when there is a lien in favor of the District, or there has been an assignment or transfer of such property to the District prior to 1962, asserted to protect the interests of the District. (Apr. 6, 1982, D.C. Law 4-101, § 1102, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-211.3. Same — Federal financial participation.**

When the cost of repairs to the home of a recipient of OAA, AB, APTD, and AFDC exceeds \$500, federal financial participation of 50% shall be claimed only on that portion of the expenditure which does not exceed \$500. Federal financial participation shall not be claimed for expenditures for repairs to the home of a recipient of GPA. (Apr. 6, 1982, D.C. Law 4-101, § 1103, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.



**§ 3-211.4. Moving costs permitted.**

The Mayor may pay moving costs when necessary to enable a recipient of public assistance to move into public or private housing. (Apr. 6, 1982, D.C. Law 4-101, § 1104, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-211.5. Authorization of payment for moving costs.**

The payment may be authorized:

(1) As a money payment to the recipient when he or she makes his or her own arrangements for moving; or

(2) As a vendor payment to the moving firm when arrangements must be made by the Mayor. (Apr. 6, 1982, D.C. Law 4-101, § 1105, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**§ 3-211.6. Prompt payment of disregarded sum.**

The Mayor shall promptly pay to the AFDC assistance unit the sum disregarded under § 3-205.11(a)(7). (Apr. 6, 1982, D.C. Law 4-101, § 1106, as added Sept. 10, 1985, D.C. Law 6-35, § 2(p), 32 DCR 3778.)

**Cross references.** — As to application of certain disregards in determining AFDC income eligibility, see § 3-205.10.

**Legislative history of Law 6-35.** — See note to § 3-202.5.

***Subchapter XII. Payments to Incapacitated Individuals.*****§ 3-212.1. Payment to incapacitated recipient.**

Whenever a recipient has been found by the Mayor to be incapable of taking care of himself or herself, his or her property, or his or her money, and a person has been judicially appointed as legal representative, or a responsible person has been appointed by the Mayor, on behalf of such incapacitated individual for the purpose of receiving and managing such individual's public assistance payments (whether or not he is such individual's legal representative for other purposes), public assistance payments may be made on behalf of such individual to such judicially appointed legal representative, or to such responsible person appointed by the Mayor. (Apr. 6, 1982, D.C. Law 4-101, § 1201, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### **§ 3-212.2. Protective or vendor payments on behalf of dependent children.**

(a) The Mayor may authorize protective or vendor payments on behalf of dependent children under the following conditions:

(1) It has been clearly determined that the parent or relative persistently mismanages the assistance payment to the detriment of the child as evidenced by such factors as the improper clothing and feeding of the children, failure to pay rent resulting in repeated evictions, and other similar indications of money mismanagement.

(2) The individual selected as payee for the family has demonstrated his or her interest and concern in the welfare of the family, has the ability to establish and maintain a positive relationship and help the family to make proper use of the assistance payment, and is a responsible and dependable person. Members of the staff of the Mayor or persons whose selection might create a conflict of interest, such as grocers or landlords, shall not be selected as payees.

(3) A determination has been made as to what requirements, if any, will be met by vendor payments to persons providing goods and services with, to the extent possible, the participation and consent of the AFDC relative.

(b) The Mayor, with the cooperation of the payee, will undertake and continue special efforts to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family.

(c) The cases of AFDC children for whom protective or vendor payments are being made shall be reviewed at least every 6 months to determine whether there is a need to continue such payments, or, if the relative is considered able to manage funds in the best interest of the children, whether assistance can be resumed as a direct money payment.

(d) Provision will be made for termination of protective payments, or payments to a person furnishing goods or services, as follows:

(1) When relatives are considered able to manage funds in the best interest of the child, there will be a return to money payment status.

(2) When it appears that need for protective payments or payments to a person furnishing goods or services will continue or is likely to continue beyond 1 year because all efforts have not resulted in sufficiently improved use of assistance in behalf of the child, judicial appointment of a guardian, or other legal representative will be sought and such payments will terminate when the appointment has been made.

(e) An opportunity for a fair hearing will be given to the relative of the children with respect to the determination of whether a protective or vendor payment should be made or continued, the selection of the payee, or if foster care should be provided.

(f) Federal financial participation for individuals receiving protective or vendor payments in any month is limited to 10% of all AFDC recipients, exclusive of persons for whom protective or vendor payments are made by reason of failure to participate in the Work Incentive Program. (Apr. 6, 1982, D.C. Law 4-101, § 1202, 29 DCR 1060.)

**Legislative history of Law 4-101. — See**  
note to § 3-201.1.

### **§ 3-212.3. Protective payments on behalf of adult recipients.**

(a) The Mayor may authorize protective payments on behalf of adult recipients of public assistance under the following conditions:

(1) When there has been made clear determination that a needy individual has, by reason of physical or mental impairment, such inability to manage funds that making payments to him would be contrary to his or her welfare, as evidenced by his or her repeated failure to pay for rent and other essentials, exploitation of him or her in money matters by other persons, and medical or psychological reports indicating severe mental retardation, disorientation, or memory loss; and

(2) When the individual selected as payee has shown an interest in and concern for the welfare of the recipient, is accessible to the recipient, has the ability to establish and maintain a positive friendly relationship with the recipient, and is dependable and able to use the assistance payment in the best interests of the recipient. Members of the staff of the Mayor or persons whose selection might create a conflict of interest, such as grocers or landlords, shall not be selected as payees.

(b) The adult recipient shall be given the opportunity for a fair hearing with respect to any decision to make or continue protective payments or the selection of the payee.

(c) The Mayor will undertake and continue special efforts to improve, to the extent possible, the recipient's capacity for self-care and his or her ability to manage funds.

(d) Reconsideration of the need for protective payments shall be made as indicated by the recipient's circumstances and, in any event, at least every 6 months.

(e) The Mayor shall initiate court proceedings for the judicial appointment of a guardian or other legal representative whenever it appears that such an appointment will best serve the interests of the recipient.

(f) The Mayor shall authorize protective payments only when the Mayor can meet total need for all cases based on the current standards for requirements.

(g) Federal financial participation shall be claimed for protective payments in behalf of recipients of OAA, AB, and APTD. No federal financial participation may be claimed for recipients of GPA. (Apr. 6, 1982, D.C. Law 4-101, § 1203, 29 DCR 1060.)

**Legislative history of Law 4-101. — See**  
note to § 3-201.1.



*Subchapter XIII. Actions for Support  
from Responsible Relatives.*

### § 3-213.1. Action for support.

(a) Responsible relatives for any applicant or recipient of public assistance shall be limited to spouse for spouse, and parent for a child under the age of 21, and their financial responsibility shall be based upon their ability to pay. Any such applicant or recipient of public assistance or person in need thereof, or the Mayor, may bring an action to require such financially responsible spouse or parent to provide such support, and the Court shall have the power to make orders requiring such spouse or parent to pay such eligible applicant or recipient of public assistance such sums or sums of money in such installments as the Court in its discretion may direct, and such orders may be enforced in the same manner as orders for alimony.

(b) The Mayor may, on behalf of the District, sue such spouse or parent for the amount of public assistance granted to such recipient under this chapter or under any act repealed by this act, or for so much thereof as such spouse or parent is reasonably able to pay.

(c) All suits, actions, and court proceedings under this section shall be brought in the Family Division of the Superior Court of the District of Columbia, or in that Court division which may subsequently exercise the jurisdiction exercised by the Family Division on April 6, 1982. To the extent applicable, suits, actions, and proceedings brought pursuant to this section shall be governed by the provisions of Chapter 11 of Title 11 and Chapter 23 of Title 16. (Apr. 6, 1982, D.C. Law 4-101, § 1301, 29 DCR 1060.)

**Cross references.** — As to interception of District income tax refunds of individuals in arrears in court-ordered child support payments, see § 47-1812.11.

**Section references.** — This section is referred to in §§ 3-213.2 and 30-507.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**References in text.** — "This act," referred to in subsection (b) of this section, is D.C. Law 4-101.

**Constitutionality of section.** — This section does not deny due process. *Groover v. Essex County Welfare Bd.*, App. D.C., 264 A.2d 143 (1970).

**Legislative intent.** — Congress intended that the common-law equitable defenses to liability for support of one's spouse be incorporated into this section. *Randolph v. District of Columbia*, App. D.C., 333 A.2d 380 (1975).

**This section contemplates present and future support.** *Stone v. Brewster*, App. D.C., 218 A.2d 41 (1966).

**Father is not legally required to support and educate an adult child**, except when the child is in need of public assistance or is hospi-

talized because of mental illness. *Spence v. Spence*, App. D.C., 266 A.2d 29 (1970).

**Uniform treatment of non-AFDC and AFDC families.** — Non-Aid to Families with Dependent Children (AFDC) and AFDC cases can be treated alike under the District of Columbia Child Support Guideline (Appendix I of the Superior Court General Family Rules) by employing the Guideline which bases a support award on a formula applied to gross income and the ability to pay requirement of this section which is consistent with case law, thus avoiding any apparent conflict between these provisions. *District of Columbia ex rel. K.K. v. W.C.R.*, 116 WLR 2197 (Super. Ct. 1988).

**Order for reimbursement of District non-discretionary where parent reasonably able to pay.** — Where the District has established that a parent is reasonably able to pay child support and that the child is being supported by public assistance, the court has no discretion under this section to refuse to order child support in some amount as reimbursement to the District. *District of Columbia ex rel. K.L.H. v. Duncan*, 117 WLR 21 (Super. Ct. 1989).

**Proof required for recovery of pay-**

ments. — In an action by the District of Columbia to recover from the husband public assistance payments made to his wife, who had deserted the marital abode, the burden of proof is on the District to rebut the presumption of wrongful desertion by establishing that the separation was by mutual consent, the fault of

the husband, or that the wife was insane at the time of the separation. *Randolph v. District of Columbia*, App. D.C., 333 A.2d 380 (1975).  
Cited in *Miller v. Miller*, App. D.C., 561 A.2d 1005 (1989); *District of Columbia ex rel. K.K. v. W.C.R.*, 117 WLR 1373 (Super. Ct. 1989).

§ 3-213.2. Income scale exemptions.

The Director shall apply the following income scale exemptions to determine the ability of a legally responsible relative, cited in § 3-213.1, to contribute to the support of a public assistance applicant or recipient, with the exception of a parent for a minor child or a spouse for the other spouse who is legally liable to support under other District statutes:

(1) Relative is the primary wage earner for his or her own family — Scale A

Number of Persons Dependent  
Upon Income — Including

Wage Earner	Net Annual Income Scale
1 .....	\$ 4,700
2 .....	6,800
3 .....	8,800
4 .....	9,300
5 .....	10,300
For each additional dependent .....	1,000

(2) Relative is supported by others but has an independent income — Scale B

Number of Persons Dependent  
Upon Income — Including

Wage Earner	Net Annual Income Scale
1 .....	\$2,350
2 .....	2,850
For each additional dependent .....	500

(Apr. 6, 1982, D.C. Law 4-101, § 1302, 29 DCR 1060.)

Legislative history of Law 4-101. — See note to § 3-201.1. Cited in *District of Columbia ex rel. K.L.H. v. Duncan*, 117 WLR 21 (Super. Ct. 1989).

§ 3-213.3. Basis for computation of contribution.

(a) Net income for this purpose shall be total income minus taxes, Social Security, retirement, and insurance deducted by the employer.

(b) The dollar amount of the following extraordinary expenses shall be added to the exemption for dependents before determining the relative's expected contribution:

(1) Medical and dental expenses in excess of 3% of gross and annual income;

(2) Debts remaining after long unemployment or illness accrued as a result of such unemployment or illness;

(3) Cost of establishment of home after fire or forced moving;

(4) Reasonable educational expenses beyond secondary school; and

(5) Other unusual expenses as approved by the Mayor.

(c) The expected contribution is one-half of any excess after allowable exemptions have been considered. Computation shall be to the nearest dollar.

(d) No contribution is required if the amount is less than \$5 per month. Any amount which is regularly contributed each month shall be counted as a resource.

(e) The employed mother and father of an adult recipient may combine their incomes in determining their expected contribution.

(f) When the relative is an employed daughter whose husband is not employed full time, Income Scale A is used. (Apr. 6, 1982, D.C. Law 4-101, § 1303, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

Cited in District of Columbia ex rel. K.L.H. v. Duncan, 117 WLR 21 (Super. Ct. 1989).

### § 3-213.4. Dependents defined.

Dependents of a legally responsible relative are defined as:

(1) All persons dependent upon the income of the relative excluding the public assistance applicant or recipient; the support of persons claimed as dependents who do not live in the relative's household must be verified.

(2) The employed wife of a responsible relative when her income is added to his in determining the contribution according to Income Scale A.

(3) When Income Scale B is used, all of the persons included in paragraph (1) of this section plus the employed husband or relative. (Apr. 6, 1982, D.C. Law 4-101, § 1304, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-213.5. Noncompliance by relative.

Whenever a responsible relative fails to provide information necessary to determine his ability to support, or when it has been determined that he is financially able to but has not contributed to the person in need of assistance, the case shall be evaluated for appropriate action including referral to Corporation Counsel. (Apr. 6, 1982, D.C. Law 4-101, § 1305, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.



**§ 3-213.6. Verification of ability to contribute.**

The ability of responsible relatives to contribute shall be determined through verification of earnings and other income at time of application, and whenever circumstances indicate the need to do so, but in no case less frequently than once every 12 months. (Apr. 6, 1982, D.C. Law 4-101, § 1306, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

*Subchapter XIV. District Claims of Support from Estates; Funeral Expenses.*

**§ 3-214.1. Claim of District against estate of recipient; lien in favor of District; payment of share to United States.**

(a) At the death of any person who has received public assistance in the form of Old Age Assistance, or Aid to the Disabled pursuant to the provisions of this chapter, or of any act repealed by this act, the District shall have a preferred claim for the amount of any such public assistance against the estate of the deceased recipient. Notwithstanding the provisions of any other law, no statute of limitations shall be deemed applicable as a defense to any claim of the District made pursuant to this section. The Mayor may waive any such claim when in his or her judgment he or she deems it appropriate to do so.

(b) In addition to the remedy provided by subsection (a) of this section, or by any other provision of law, the Mayor may file a notice in the Office of the Recorder of Deeds in any case where public assistance in the form of Old Age Assistance or Aid to the Disabled is granted to any person under this chapter, and such notice shall constitute and have the effect of a lien in favor of the District against the real and personal property of such person for the amount of such public assistance which theretofore has been granted or which may thereafter be granted to, or on behalf of, such persons. Any such lien may be enforced by the proceeding filed in the Superior Court of the District of Columbia. The Mayor shall file in the Office of the Recorder of Deeds a release of any such real and personal property from the effect of such lien wherever there has been repaid to the District the amount of the public assistance theretofore granted to, or on behalf of, such person. The Mayor is also authorized to release any such lien when in his or her judgment he or she deems it appropriate to do so. Such notices and release may be filed without payment of fees.

(c) If the District collects from any recipient of public assistance in the form of Old Age Assistance or Aid to the Disabled or from his estate, or otherwise, any amount with respect to public assistance furnished him or her under this chapter, the pro rata share to which the United States is equitably entitled

shall be paid to the United States in accordance with the provisions of the Social Security Act, as amended (42 U.S.C. §§ 303, 603, 1203, 1353). The pro rata share due the District shall be deposited as miscellaneous receipts to the credit of the District. (Apr. 6, 1982, D.C. Law 4-101, § 1401, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**References in text.** — "This act," referred to in the first sentence of subsection (a) of this section, is D.C. Law 4-101.

**Applicability of section.** — The fact that in the Statutes-at-Large the words "old-age assistance" and "aid to the disabled" are not capitalized means that the District's lien-placing authority is not limited to monies granted under those particular federal programs, i.e., Old Age Assistance and Aid to the Disabled. The words "in the form of old-age assistance and aid to the disabled" permit the District to record a lien when it assists the elderly or disabled through

a program directed to them as such, regardless of whether the assistance is rendered in connection with a specific federal program. *Burt v. District of Columbia*, App. D.C., 525 A.2d 616 (1987).

**Scope of Mayor's authority.** — Since the statutory language of this section empowers the Mayor to place a lien on the home of a recipient "in any case" in which public assistance is granted, when loans are made they trigger the Mayor's authority, regardless of whether they are, or are not, authorized. *Burt v. District of Columbia*, App. D.C., 525 A.2d 616 (1987).

## § 3-214.2. Funeral expenses — Payment permitted.

On the death of a recipient, reasonable funeral expenses may be paid, subject to rules approved by the Council, by resolution. (Apr. 6, 1982, D.C. Law 4-101, § 1402, 29 DCR 1060; May 10, 1989, D.C. Law 7-231, § 13, 36 DCR 492.)

*issued by the may*

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 7-231.** — Law 7-231, the "Technical Amendments Act of 1988," was introduced in Council and assigned Bill No. 7-586, which was referred to the Com-

mittee of the Whole. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-285 and transmitted to both Houses of Congress for its review.

## § 3-214.3. Same — Indigent residents; wards of District.

The Mayor may, pursuant to § 3-214.4, provide for the payment of reasonable funeral and burial expenses of indigent residents of the District and of persons under the care and custody of the District. (Apr. 6, 1982, D.C. Law 4-101, § 1403, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

## § 3-214.4. Funeral allowance.

(a) The family of the deceased may choose a funeral director or establishment to provide a funeral service from a list of firms who have signed agreements with the Mayor to provide such services. The Mayor may pay a maximum of \$750 for a complete adult funeral service including the burial plot. A maximum of \$40 in private funds may be contributed to purchase flowers, a memorial book, and an obituary notice. No other additional payment is permitted.

(b) The Mayor shall define a complete adult, infant, and child funeral service and a cremation service. The Mayor shall also establish a schedule of lower maximum payments for infant and child funeral services and a cremation service.

(c) The Mayor may annually adjust the amount to be paid for each funeral service, including burial plot, in a manner which reflects but does not exceed the rate of change in the Consumer Price Index, as defined by the United States Department of Labor, Bureau of Labor, Bureau of Labor Statistics, during the 12 months immediately preceding such adjustment.

(d) The Mayor shall monitor the provider of funeral services to insure that complete, dignified, and high-quality funeral services are provided.

(e) Nothing in this section shall be construed as repealing or in any way modifying any provision of Chapter 14 of Title 2, or § 27-130. (Apr. 6, 1982, D.C. Law 4-101, § 1404, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-214.3.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### *Subchapter XV. Assignment of Public Assistance Prohibited.*

#### **§ 3-215.1. Prohibition; immunity from legal process.**

Public assistance awarded under this chapter shall not be transferable or assignable at law or in equity, and none of the money paid or payable to any recipient under this chapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or the operation of any bankruptcy or insolvency law. (Apr. 6, 1982, D.C. Law 4-101, § 1501, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### *Subchapter XVI. Record Keeping Requirements.*

#### **§ 3-216.1. Mayor to prescribe regulations.**

(a) The Mayor is directed to prescribe regulations governing the custody, use, and preservation of the records, papers, files, and communications of the Mayor relating to public assistance, except as restricting the use or disclosure of information concerning applicants for, or recipients of, public assistance to purposes directly connected with the administration of public assistance. Except as otherwise provided, these regulations shall provide safeguards restricting the use or disclosure of information concerning applicants for, or recipients of, public assistance to purposes directly connected with the administration of public assistance.

(b) No person who obtains information by virtue of any regulation made pursuant to subsection (a) of this section shall use such information for commercial or political purposes.

(c) This section and § 3-218.2 shall be construed as state legislation conforming to the requirements of 42 U.S.C. § 1306a. (Apr. 6, 1982, D.C. Law



4-101, § 1601, 29 DCR 1060; Sept. 10, 1985, D.C. Law 6-35, § 2(q), 32 DCR 3778.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 6-35.** — See note to § 3-202.5.

### *Subchapter XVII. Foster Care.*

#### **§ 3-217.1. Requirements for benefits.**

The Mayor shall, effective July 1, 1969, provide Aid to Dependent Children in the form of foster care when removal of a child from the home of a parent or relative results from judicial determination that continuation in such home is contrary to the child's welfare, provided:

(1) The child received AFDC in or for the month in which court proceedings leading to such a determination were initiated; or

(2) The child was living with a relative within 6 months prior to the month such proceedings were initiated and would have received such aid had application been made in his behalf. (Apr. 6, 1982, D.C. Law 4-101, § 1701, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

#### **§ 3-217.2. Types of placement.**

Foster care shall be provided in a foster family home or in a child-care institution, whichever best meets the needs of the individual child. The Mayor, in providing such care, may use foster family homes and child-care institutions outside the District of Columbia, provided that such homes and institutions are licensed by the state in which they are located or are approved to meet the standards established by the state for such foster family homes or institutions. (Apr. 6, 1982, D.C. Law 4-101, § 1702, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

#### **§ 3-217.3. Administration of benefits.**

The Mayor shall:

(1) Review the plan for each child periodically, but no less frequently than once each year, to assure that he receives proper care and to determine the appropriateness and continued need for placement; and

(2) Provide services which are designed to improve conditions in the home from which the child was removed and effect his return, or otherwise to make possible his being placed in the home of a relative as specified in Title IV of the Social Security Act (42 U.S.C. § 601 et seq.). (Apr. 6, 1982, D.C. Law 4-101, § 1703, 29 DCR 1060.)

Legislative history of Law 4-101. — See note to § 3-201.1.

**§ 3-217.4. Federal financial participation.**

The Mayor shall claim federal financial participation for foster care payments to the fullest extent permissible under the provisions of Title IV of the Social Security Act (42 U.S.C. § 601 et seq.). (Apr. 6, 1982, D.C. Law 4-101, § 1704, 29 DCR 1060.)

Legislative history of Law 4-101. — See note to § 3-201.1.

**§ 3-217.5. Determination of need.**

(a) The Mayor, in determining the need for public assistance, shall permit:

(1) Applicants for, or recipients of, GPA to retain liquid assets not to exceed \$300 for a 1-person assistance unit, or \$500 for a 2-person assistance unit, whether or not each is eligible in his own right to receive assistance. Personal property, family home, and the equity value of 1 car (up to a value of \$1,500) shall not be considered liquid assets.

(2) Applicants for, or recipients of, AFDC to retain resources up to a total value of \$1,000 for the assistance unit. The value shall be reduced by any obligations or debts with respect to such resources.

(3) If any real or personal property, including liquid assets, is jointly owned by a member of an assistance unit and another person who is not a member of an assistance unit, the value shall be divided equally among the co-owners and only the portion of the assistance unit member(s) shall be considered as available.

(b) The following shall not be considered resources for the purposes of determining the resources of applicants or recipients of AFDC under subsection (a) (2) of this section:

(1) The value of a home which is the usual residence of the assistance unit;

(2) The equity value of 1 car (up to a total of \$1,500);

(3) The value of 1 burial plot for each member of the assistance unit. The Mayor shall define the term "burial plot" for the purpose of this exclusion.

(4) The equity value of bona fide funeral agreements, up to a total of \$1,500 per person, for each member of the assistance unit;

(5) Real property, for a period of 9 months, that the family unit is making a good faith effort to sell if the family agrees to sign an agreement to dispose of the property and to use the proceeds of the sale to repay any AFDC benefits it would not have received if the property had been sold at the beginning of the period. The family will not have to repay an amount greater than the net proceeds from the sale. If there are any remaining proceeds, these proceeds shall be considered a resource. If the property has not been sold within the specified time period, or eligibility stops for any other reason, the entire amount of aid paid during the period shall be treated as an overpayment. The Mayor shall define "good faith effort" for the purpose of this exclusion; and

(6) Basic maintenance items essential to day-to-day living, as defined by the Mayor. (Apr. 6, 1982, D.C. Law 4-101, § 1705, 29 DCR 1060; Mar. 14, 1985, D.C. Law 5-150, § 2(h), 31 DCR 6425; Sept. 10, 1985, D.C. Law 6-35, § 2(r), 32 DCR 3778.)

**Section references.** — This section is referred to in § 3-205.10.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 5-150.** — See note to § 3-205.5.

**Legislative history of Law 6-35.** — See note to § 3-202.5.

**Burial fund.** — The court, when examining requests for guardianship fund payments, will ignore a burial fund if it is within the maximum amount allowable under the District of Columbia and federal public assistance regulations. *In re Mitchell*, 121 WLR 541 (Super. Ct. 1993).

### § 3-217.6. Monies applied to purchase of essential article.

Monies saved from the monthly public assistance payment to be applied to the purchase of an article essential for personal or household maintenance shall not be considered as a part of the permissible cash reserve. (Apr. 6, 1982, D.C. Law 4-101, § 1706, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-217.7. Condition of eligibility — Social Security number; assignment of support rights.

As a condition of eligibility, each applicant for or recipient of aid, including each child under the AFDC, Emergency Assistance, or AFDC Foster Assistance programs operated pursuant to Part A of Title IV of the Social Security Act (42 U.S.C. § 601 et seq.) shall be required to:

(1) Furnish to the Mayor a Social Security account number, or to apply for a Social Security number if such a number has not been issued or is not known; and

(2) Assign to the District of Columbia support rights, including accrued support rights from any other person that such applicant or recipient may have in his or her own behalf, or in behalf of any other family member from whom the applicant or recipient is applying for or receiving aid. (Apr. 6, 1982, D.C. Law 4-101, § 1707, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-217.8.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-217.8. Same — Cooperation in identifying and locating parents, establishing paternity, obtaining support payments, and other payments.

As a condition of eligibility for assistance under programs specified in § 3-217.7, each applicant for or recipient of assistance shall be required to cooperate with the District of Columbia in:



(1) Identifying and locating the parent of a child with respect to whom aid is claimed;

(2) Establishing the paternity of a child born out of wedlock with respect to whom aid is claimed;

(3) Obtaining support payments for such applicant, recipient, or child with respect to whom aid is claimed; and

(4) Obtaining any other payment or property due such applicant, recipient, or such child. (Apr. 6, 1982, D.C. Law 4-101, § 1708, 29 DCR 1060.)

**Section references.** — This section is referred to in §§ 3-217.9, 3-217.10 and 3-217.11.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-217.9. Same — Exception to cooperation.

An applicant for or recipient of aid shall be required to comply with the requirements of § 3-217.8, unless such applicant or recipient is found to have good cause for refusing to so cooperate as determined by the Mayor, in accordance with standards prescribed by the Secretary of Health and Human Services, and which standards shall take into consideration the best interests of the child on whose behalf aid is claimed. (Apr. 6, 1982, D.C. Law 4-101, § 1709, 29 DCR 1060.)

**Section references.** — This section is referred to in §§ 3-217.10 and 3-217.11.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-217.10. Same — Effect of failure to comply.

If any relative with whom a child is living fails to comply with the conditions of eligibility set out in §§ 3-217.8 and 3-217.9, such relative will be denied eligibility without regard to other factors. (Apr. 6, 1982, D.C. Law 4-101, § 1710, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### § 3-217.11. Same — Protective or vendor payments.

If the relative with whom the child is living is found to be ineligible for assistance because of failure to comply with conditions of §§ 3-217.8 and 3-217.9, any aid for which such child is eligible (determined without regard to the needs of the ineligible relative) shall be provided in the form of protective or vendor payments. (Apr. 6, 1982, D.C. Law 4-101, § 1711, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

*Subchapter XVIII. Criminal Provisions.***§ 3-218.1. Fraud in obtaining public assistance; repayment; liability of family members; penalties.**

(a) Any person who, by means of false statement, failure to disclose information, or impersonation, or by other fraudulent device, obtains or attempts to obtain or any person who knowingly aids or abets such person in the obtaining or attempting to obtain: (1) Any grant or payment of public assistance to which he is not entitled; (2) a larger amount of public assistance than that to which he or she is entitled; (3) payment of any forfeited grant of public assistance; or (4) a public assistance identification card; or any person who with intent to defraud the District aids or abets in the buying or in any way disposing of the real property of a recipient of public assistance shall be guilty of a misdemeanor and shall be sentenced to pay a fine of not more than \$500, or to imprisonment not to exceed 1 year, or both.

(b) Any person who for any reason obtains any payment of public assistance to which he is not entitled, or in excess of that to which he is entitled, shall be liable to repay such sum, or if continued on assistance, shall have future grants proportionately reduced until the excess amount received has been repaid. In any case in which, under this section, a person is liable to repay any sum, such sum may be collected without interest by civil action brought in the name of the District. Any repayment of General Public Assistance required by this subsection may, in the discretion of the Mayor, be waived in whole or in part, upon a finding by the Mayor that such repayment would deprive such person, his spouse, parent, or child of shelter or subsistence needed to enable such person, spouse, parent, or child to maintain a minimum standard of health and well-being. Collections of overpayments from AFDC recipients shall be made in accordance with 45 CFR 233.20(a)(13). Computation of the amount to be recovered each month from a GPA recipient shall be in accordance with 45 CFR 233.20(a)(13).

(c) Any person who is a member of a family that applies for or receives Aid to Families with Dependent Children ("AFDC") and who is found, by a federal or District of Columbia court or pursuant to an administrative hearing, on the basis of a plea of not guilty or nolo contendere or otherwise, to have intentionally:

(1) Made a false or misleading statement or misrepresented, concealed, or withheld facts; or

(2) Committed any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity for the purpose of establishing or maintaining the eligibility of the family for aid or of increasing or preventing a reduction in the amount of the aid shall have his or her needs removed from the grant for a period of 6 months upon the first offense, 12 months upon the second offense, and permanently upon the third or a subsequent offense.

(d) The Mayor shall impose the disqualification penalties set forth in subsection (c) of this section upon any person who is a member of a family that applies for or receives AFDC and who is found, after an administrative hear-

ing, to have violated subsection (c) of this section, provided that only the person convicted of fraud shall be penalized and not the entire applicant family unit.

(e) The Mayor shall provide each applicant for AFDC a written notice of the penalties for a finding of fraud pursuant to subsection (c) of this section at the time of his or her application for AFDC. (Apr. 6, 1982, D.C. Law 4-101, § 1801, 29 DCR 1060; June 30, 1989, D.C. Law 8-14, § 2, 36 DCR 3693; Aug. 17, 1991, D.C. Law 9-19, title I, § 101(l), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-27, § 2(l), 38 DCR 4205.)

**Section references.** — This section is referred to in § 3-218.2.

**Effect of amendments.** — D.C. Law 9-27, in (b), inserted "for any reason" following "Any person who" in the first sentence, and added the fifth sentence.

**Temporary amendments of section.** — Section 101(l) of D.C. Law 9-19 in (b), inserted "for any reason" following "Any person who" in the first sentence, and added the fifth sentence.

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 101(l) of the Omnibus Budget Support Emergency Act of 1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390).

For temporary amendment of section, see § 101(l) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Legislative history of Law 8-14.** — Law 8-14, the "Public Assistance Act of 1982 Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-73, which was

referred to the Committee on Human Services. The Bill was adopted on first and second readings on April 18, 1989 and May 2, 1989, respectively. Signed by the Mayor on May 12, 1989, it was assigned Act No. 8-30 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-19.** — See note to § 3-205.5a.

**Legislative history of Law 9-27.** — See note to § 3-205.5a.

**Multiple offenses.** — Where defendant made misrepresentations on 3 different forms for public assistance, each form applying to a different period of time, the violations constituted 3 different offenses, not 1. *Abdulshakur v. District of Columbia*, App. D.C., 589 A.2d 1258 (1991).

**Compliance with § 1-1506(a).** — The Department of Human Services did not engage in "rulemaking" within the context of the Administrative Procedure Act and therefore its uniformly applied recoupment rate under subsection (b) of this section was effective without compliance with § 1-1506(a). *Boyd v. District of Columbia Dep't of Human Servs.*, App. D.C., 524 A.2d 744 (1987).

**Cited in** *District of Columbia v. Forbes*, 116 WLR 2213 (Super. Ct. 1988).

## § 3-218.2. Penalty for violation of § 3-218.1(b); prosecutions.

Any person violating § 3-218.1(b) shall be punished by a fine of not more than \$500, or by imprisonment of not more than 90 days, or by both such fine and imprisonment. Prosecutions for such violations and for violations of § 3-218.1(a) shall be brought to the Superior Court of the District of Columbia by the Corporation Counsel or any of his or her assistants. (Apr. 6, 1982, D.C. Law 4-101, § 1802, 29 DCR 1060.)

**Section references.** — This section is referred to in § 3-216.1.

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**Multiple offenses.** — Where defendant made misrepresentations on 3 different forms

for public assistance, each form applying to a different period of time, the violations constituted 3 different offenses, not 1. *Abdulshakur v. District of Columbia*, App. D.C., 589 A.2d 1258 (1991).



### § 3-218.3. Unauthorized use of identification card.

Any person who sells a public assistance identification card, or otherwise permits any person other than the recipient to whom it was issued to use such card to obtain public assistance which such user is not otherwise eligible to receive, shall be fined not more than \$500, or imprisoned for not longer than 1 year, or both. (Apr. 6, 1982, D.C. Law 4-101, § 1803, 29 DCR 1060.)

Legislative history of Law 4-101. — See note to § 3-201.1.

## *Subchapter XIX. Appropriations.*

### § 3-219.1. Authorization.

(a) The Mayor shall include in his or her annual estimates of appropriations such sums as may be needed to carry out the provisions of this chapter.

(b) Unobligated balances of appropriations for the Department of Human Services, established by Reorganization Plan No. 2 of 1979, are made available for the purposes of this chapter. (Apr. 6, 1982, D.C. Law 4-101, § 1901, 29 DCR 1060.)

Legislative history of Law 4-101. — See note to § 3-201.1.

### § 3-219.2. Disbursement of expenses.

All necessary expenses incurred by the District in carrying out the provisions of this chapter shall be disbursed in the same manner as other expenses of the District are disbursed. (Apr. 6, 1982, D.C. Law 4-101, § 1902, 29 DCR 1060.)

Legislative history of Law 4-101. — See note to § 3-201.1.

## *Subchapter XX. Nonrevival of Previously Repealed or Superseded Public Enactments; Nonabatement of Causes of Action.*

### § 3-220.1. Nonrevival of previously repealed or superseded laws, acts, regulations, Commissioner's orders, Commissioners' orders, and administrative orders; effect of amendments.

(a) The provisions of this subchapter shall not cause the revival of any law, act, regulation, Commissioner's order, Commissioners' order, or administrative order (for the purposes of this subchapter and Title XXIII of this act, "public enactment") previously repealed or superseded.

(b) Any amendment to a law effected by a law, act, regulation, Commissioner's order, Commissioners' order, or administrative order in § 2101 of D.C. Law 4-101 to a public enactment not therein contained shall be considered as having been made on the date of the original enactment of such public enactment and shall continue in effect.

(c) Public enactments repealed by § 2101 of D.C. Law 4-101 shall be considered to have been in effect from their date of original enactment until April 6, 1982, as provided in Title XXIII of this act. (Apr. 6, 1982, D.C. Law 4-101, § 2102, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

**References in text.** — "Title XXIII of this act," referred to in subsections (a) and (c) of this section, is Title XXIII of the Act of April 6, 1982, D.C. Law 4-101, which contained a disposition table of prior public enactments regarding public assistance programs. D.C. Law 4-101 was an attempt to draw together without substantive change a variety of prior enactments, many of which had never been codified.

D.C. Law 4-101 repealed the following public enactments: Chapter 2 of Title 3 of the D.C. Code; certain uncodified D.C. Laws which included 1-74, 1-92, 1-108, and 3-3; certain sections of Act 4-133; and all or portions of certain regulations which included 68-20, 68-28, 68-28a, 69-1, 69-3, 69-19, 69-23, 69-24, 69-26, 69-27, 69-29, 69-30, 69-37, 69-40, 69-49, 69-50, 69-58, 69-59, 70-9, 70-12, 70-29, 71-2, 71-24, 71-29, and 72-17.

## § 3-220.2. Nonabatement of causes of action.

The enactment of this chapter shall not cause the abatement of any causes of action affecting public enactments repealed by this title. (Apr. 6, 1982, D.C. Law 4-101, § 2103, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

to at the end of this section, is Title XXI of D.C. Law 4-101.

**References in text.** — "This title," referred

## § 3-220.3. No new rights or entitlements created; exception.

Except as provided in § 3-205.52, no new rights or entitlements are created by this chapter. (Apr. 6, 1982, D.C. Law 4-101, § 2104, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

### *Subchapter XXI. Severability.*

## § 3-221.1. Severability.

Should a court of competent jurisdiction hold any provision of this chapter to be invalid, then the remaining provision of the chapter shall be considered to be severable and given full effect. (Apr. 6, 1982, D.C. Law 4-101, § 2201, 29 DCR 1060.)

**Legislative history of Law 4-101.** — See note to § 3-201.1.

## CHAPTER 3. DAY CARE.

Sec.

- 3-301. Definitions.
- 3-302. Day care program authorized; funding system for child development facilities.
- 3-303. Payment of full cost by Department.
- 3-304. Supplemental payments by Department.
- 3-305. Schedule of payments by parents.
- 3-306. Responsibility of Department for payment.
- 3-307. Collection of overpayments.
- 3-308. Waiver of overpayments.

Sec.

- 3-309. Contracts with licensed child development centers; payment for services.
- 3-310. Payments to child development homes and to in-home caregivers.
- 3-311. Standards for in-home care.
- 3-312. Compliance with District regulation.
- 3-313. Monitoring day care services; publication of procedures; compliance with federal regulations.
- 3-314. Authorization of grants to develop satellite child development home programs.

## § 3-301. Definitions.

As used in this chapter:

(1) The term "child" means an individual between the ages of birth and 15 years.

(2) The term "child development center" means a child development facility for more than 5 children which provides a full day (more than 4 but less than 24 hours per day), part day (up to 4 hours per day) or before and after school child development program, including such programs provided during school vacations.

(3) The term "child development home" means a private residence which provides a child development program for up to a total of 5 children with no more than 2 children younger than 2 years of age in the group. The total of 5 children shall not include those of the caregiver who are 6 years or older: Except, that the total number of children of the caregiver between the ages of 6 and 15 shall not exceed 3, and of those 3 children, no more than 2 shall be age 10 or younger. A child development home shall also include care given to a child by a caregiver related to the child. For the purpose of this paragraph, "related" means any of the following relationships by marriage, blood, or adoption: Grandparent, brother, sister, step-sister, step-brother, uncle, and aunt.

(4) The term "Department" means the District of Columbia Department of Human Services.

(5) The term "in-home care" means a child care program provided in a child's home by an in-home caregiver pursuant to § 3-311.

(6) The term "termination of employment" means loss of employment by a parent resulting from a reduction in force, or in the case of private employment, a layoff or reduction in personnel due to budgetary constraints of the employer. (1973 Ed., § 3-301; Sept. 19, 1979, D.C. Law 3-16, § 2, 26 DCR 20; Sept. 29, 1982, D.C. Law 4-163, § 2(a), 29 DCR 3974.)

**Section references.** — This section is referred to in § 47-1807.6.

**Legislative history of Law 3-16.** — Law 3-16, the "Day Care Policy Act of 1979," was

introduced in Council and assigned Bill No. 3-7, which was referred to the Committee on Human Resources. The Bill was adopted on first and second readings on May 22, 1979, and



June 5, 1979, respectively. Signed by the Mayor on June 29, 1979, it was assigned Act No. 3-57 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 4-163.** — Law 4-163, the "Day Care Policy Act of 1979 Amendment Act of 1982," was introduced in Council and assigned Bill No. 4-457, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on July 6, 1982, and July 20, 1982, respec-

tively. Signed by the Mayor on July 29, 1982, it was assigned Act No. 4-237 and transmitted to both Houses of Congress for its review.

**Liability Coverage for Child Development Homes Insurance Act of 1990.** — See D.C. Law 8-140.

**Transfer of functions.** — The Department of Human Resources was replaced by the Department of Human Services by Reorganization Plan No. 2 of 1979, dated February 21, 1980.

## § 3-302. Day care program authorized; funding system for child development facilities.

The Department is hereby authorized to provide a broad program of day care services for children of parents referred or approved by the Department for various training and work incentive programs, for children of other parents known to the Department where day care appears to be in the child's best interest, and for children of low-income families, otherwise unknown to the Department, where the parents are employed outside of the home. As a part of its broad program of day care services, the Department shall develop a funding system for all child development facilities serving such children consistent with the provisions of this chapter that will encourage such facilities to:

(1) Provide a setting and a comprehensive program for the critically important early childhood development experience that will include, but not necessarily be limited to, educational, social, recreational, transportation, health, and nutritional services;

(2) Provide services directed to the total well-being of the child and the stabilization of the family unit;

(3) Provide a program which incorporates a broad-based parent and community participation component;

(4) Provide a resource to enable parents to join or remain in the work force, participate in job training and to attain self-sufficiency and independence for their families; and

(5) Provide a program which protects children of working parents from neglect or inadequate care. (1973 Ed., § 3-302; Sept. 19, 1979, D.C. Law 3-16, § 3, 26 DCR 20.)

**Legislative history of Law 3-16.** — See note to § 3-301.

## § 3-303. Payment of full cost by Department.

(a) The Department is hereby authorized to pay the full cost of day care for children identified through the following circumstances:

(1)-(4) Repealed;

(5) Children of AFDC mothers who are mentally retarded or who have a history of mental illness when day care is deemed to be in the child's best interest;

(6) Children of AFDC parents who are receiving extended treatment because of physical or mental problems, and day care is recommended by the treating facility;

(7) Repealed;

(8) Children of unwed mothers who live with 1 or both parents or another caretaker relative, if the parent or parents or other caretaker relative either refuses to give care to the child or is unable to do so, until the mother receives a high school diploma, or reaches the age of 18, or drops out of school;

(9) Repealed;

(10) Children of unemployed parents who are receiving vocational rehabilitation services, when day care is needed to allow them to engage in an established vocational rehabilitation program;

(11) Children receiving protective care services and children in foster care placement, when the foster care provider is working if only one foster care provider is in the home, and when both foster care providers are working if 2 foster care providers are in the home, and day care services are in the best interest of the child, in the following manner:

(A) For fiscal year 1990, the Mayor shall provide day care services for 150 children;

(B) For fiscal year 1991, the Mayor shall provide day care services for 200 children; and

(C) For fiscal year 1992, the Mayor shall provide day care services for 300 children;

(12) Children who are medically certified by a licensed physician or treatment facility as physically handicapped or mildly retarded; or

(13) Children eligible for day care under paragraphs (11) and (12) of this subsection shall receive priority consideration for any day care vacancy.

(b) The Mayor shall guarantee child care services to AFDC assistance units to the extent necessary for a member of the assistance unit to participate in or prepare for training or educational activity or employment, in accordance with the District of Columbia Supportive Services Plan submitted to the United States Department of Health and Human Services pursuant to 45 CFR Part 255. (1973 Ed., § 3-303; Sept. 19, 1979, D.C. Law 3-16, § 4, 26 DCR 20; Mar. 16, 1989, D.C. Law 7-215, § 2, 36 DCR 517; June 22, 1990, D.C. Law 8-144, § 3(a), 37 DCR 2974; Mar. 6, 1991, D.C. Law 8-202, § 3(a), 37 DCR 7937.)

**Section references.** — This section is referred to in § 3-309.

**Legislative history of Law 3-16.** — See note to § 3-301.

**Legislative history of Law 7-215.** — Law 7-215, the "Day Care For Children in Foster Care Placement Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-459, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act

No. 7-290 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-144.** — Law 8-144, the "District of Columbia Family Support Act Federal Conformity Amendment Temporary Act of 1990," was introduced in Council and assigned Bill No. 8-543. The Bill was adopted on first and second readings on March 27, 1990, and April 10, 1990, respectively. Signed by the Mayor on April 26, 1990, it was assigned Act No. 8-200 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-202.** — Law

8-202, the "District of Columbia Family Support Act Federal Conformity Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-541, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on October 23, 1990, and November 13, 1990, respectively. Signed by the Mayor on November

30, 1990, it was assigned Act No. 8-268 and transmitted to both Houses of Congress for its review.

**Delegation of authority pursuant to D.C. Law 7-136, the "Day Care Policy Act of 1979 Amendment Act of 1988".** — See Mayor's Order 91-174, October 24, 1991.

### § 3-304. Supplemental payments by Department.

The Department is hereby authorized to supplement the payment for day care services by parents (paid directly to a child development center, child development home, or to an in-home caregiver according to a daily fee scale), whose gross annual income does not exceed the limits specified in the fee scale for the designated family size in § 3-305, under the following circumstances:

- (1) Repealed;
- (2) Children of other single parents (in single parent households) when day care is needed due to the parent's employment;
- (3) Children of working parents whose income is limited and the provision of day care services will enable the family to remain together;
- (4) Children of parents who are receiving extended treatment due to physical or mental problems and day care is recommended by the treating facility;
- (5) Children of employed parents who are receiving vocational rehabilitation services, when day care is needed to allow them to engage in an established vocational rehabilitation program;
- (6) Children of a non-AFDC family whose parents are enrolled in an employment and training program approved by the Mayor and who meet income eligibility requirements established by this chapter; or
- (7) Children of a working parent who terminates employment shall continue to be eligible for day care, at no cost to the parent for 3 months following the effective date of the termination of employment, unless the parent has terminated employment without good cause as defined in 45 CFR section 250.35. (1973 Ed., § 3-304; Sept. 19, 1979, D.C. Law 3-16, § 5, 26 DCR 20; Sept. 29, 1982, D.C. Law 4-163, § 2(b), 29 DCR 3974; June 22, 1990, D.C. Law 8-144, § 3(b), 37 DCR 2974; Mar. 6, 1991, D.C. Law 8-202, § 3(b), 37 DCR 7937.)

**Section references.** — This section is referred to in §§ 3-305 and 3-309.

**Legislative history of Law 3-16.** — See note to § 3-301.

**Legislative history of Law 4-163.** — See note to § 3-301.

**Legislative history of Law 8-144.** — See note to § 3-303.

**Legislative history of Law 8-202.** — See note to § 3-303.



### § 3-305. Schedule of payments by parents.

(a) Parents who receive day care services pursuant to § 3-304 shall pay a portion of services according to the sliding scale set forth in subsection (b) of this section.

(b)

Increment	Adjusted Income	Parent Fee (Percent of Child Care Paid by Parent)
1	Under \$8,020	Flat Fee of \$2 per week
2	\$8,020 — \$9,012	5%
3	\$9,013 — \$10,005	10%
4	\$10,006 — \$10,998	15%
5	\$10,999 — \$11,991	20%
6	\$11,992 — \$12,984	25%
7	\$12,985 — \$13,977	30%
8	\$13,978 — \$14,970	35%
9	\$14,971 — \$15,963	40%
10	\$15,964 — \$16,956	45%
11	\$16,957 — \$17,949	50%
12	\$17,950 — \$18,942	55%
13	\$18,943 — \$19,935	60%
14	\$19,936 — \$20,928	65%
15	\$20,929 — \$21,921	70%
16	Over \$21,921	100%

(c) The fee schedule shall be effective April 1, 1990. The Mayor may revise the fee schedule by rule. (1973 Ed., § 3-305; Sept. 19, 1979, D.C. Law 3-16, § 6, 26 DCR 20; Mar. 5, 1981, D.C. Law 3-166, § 2, 27 DCR 5355; Sept. 29, 1982, D.C. Law 4-163, § 2(c), 29 DCR 3974; June 22, 1990, D.C. Law 8-144, § 3(c), 37 DCR 2974; Mar. 6, 1991, D.C. Law 8-202, § 3(c), 37 DCR 7937; Feb. 5, 1994, D.C. Law 10-68, § 11, 40 DCR 6311.)

**Section references.** — This section is referred in §§ 3-304 and 3-309.

**Effect of amendments.** — D.C. Law 10-68 substituted "Under \$8,020" for "Under \$8,019" and "Over \$21,921" for "Over \$21,922" in the second column of the table in (b).

**Legislative history of Law 3-16.** — See note to § 3-301.

**Legislative history of Law 3-166.** — Law 3-166, the "Day Care Policy Act Amendment Act of 1980," was introduced in Council and assigned Bill No. 3-381, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on October 28, 1980, and November 12, 1980, respectively. Signed by the Mayor on November 25, 1980, it was assigned Act No. 3-297 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 4-163.** — See note to § 3-301.

**Legislative history of Law 8-144.** — See note to § 3-303.

**Legislative history of Law 8-202.** — See note to § 3-303.

**Legislative history of Law 10-68.** — Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

### § 3-306. Responsibility of Department for payment.

The Department shall be responsible for payment of day care fees to:

(1) A child development home, after admission of a particular child, for its part of the appropriate rate for up to 15 consecutive days for that child when absence is caused by illness of the child or a change in the parent's training status, provided the child is in regular attendance and the parent remains eligible or a space is being reserved;

(2) A child development center, unless at the end of a fiscal year it is determined that an average attendance rate of 90% for eligible children enrolled in the center was not maintained during the portion of the fiscal year (excluding District and federal holidays) for which the center has contracted to provide services, in which case the Department shall not be responsible for reimbursement of that proportion of its payment of day care fees for those days of nonattendance by eligible children resulting from an average attendance rate of less than 90%; and

(3) An in-home caregiver, only for those days when the in-home caregiver is present in the home of the mother or caretaker relative and rendering services as agreed. (1973 Ed., § 3-306; Sept. 19, 1979, D.C. Law 3-16, § 7, 26 DCR 20; Mar. 15, 1985, D.C. Law 5-174, § 2(a), 32 DCR 743.)

**Legislative history of Law 3-16.** — See note to § 3-301.

**Legislative history of Law 5-174.** — Law 5-174, the "Day Care Policy Act of 1979 Amendments Act of 1984," was introduced in Council and assigned Bill No. 5-527, which was referred to the Committee on Human Services.

The Bill was adopted on first and second readings on December 4, 1984, and December 18, 1984, respectively. Signed by the Mayor on January 11, 1985, it was assigned Act No. 5-239 and transmitted to both Houses of Congress for its review.

### § 3-307. Collection of overpayments.

An overpayment by the Department to a child development center, child development home, or to an in-home caregiver who is continuing to provide day care services shall be collectible in any amount. (1973 Ed., § 3-307; Sept. 19, 1979, D.C. Law 3-16, § 8, 26 DCR 20.)

**Legislative history of Law 3-16.** — See note to § 3-301.

### § 3-308. Waiver of overpayments.

The collection of an overpayment of not more than \$25 may be waived for child development centers, child development homes, or in-home caregivers who are no longer providing day care services for the Department. (1973 Ed., § 3-308; Sept. 19, 1979, D.C. Law 3-16, § 9, 26 DCR 20.)

**Legislative history of Law 3-16.** — See note to § 3-301.

### **§ 3-309. Contracts with licensed child development centers; payment for services.**

The Department shall, on an annual basis, enter into contracts or agreements with licensed child development centers to provide day care services for children described in §§ 3-303 and 3-304 who are 2 years of age or older. Payment for such services shall be on the following basis:

(1) Subject to paragraphs (2) through (8) of this section, payments to child development centers for care of these children shall be made on a monthly basis according to the following rates:

(A) For full care other than that provided under subparagraph (B) of this paragraph, child development centers shall receive \$18 per day for each child, plus \$1 per day for each child to whom the child development center provides transportation.

(B) For full care provided only during summers and vacations to children who otherwise do not receive care under this section or who otherwise receive only part-time care, child development centers shall receive \$14.40 per day for each child.

(C) For part-time care, child development centers shall receive \$9 per day for each child.

(D) No child development center shall be paid more than its stated rate prior to the application of its sliding fee scale for children not eligible for subsidized care.

(2) For child development centers that reserve at least 25% of their classroom capacity for children eligible for funding under this chapter, the Department shall, on or before August 1, 1979, for fiscal year 1980 and at least 90 days prior to the beginning of each subsequent fiscal year, specify the number of spaces it projects will be utilized by children eligible for funding under this chapter during the next fiscal year, and provide written notification of its projection to each such center.

(3) Payment shall be made by the Department to child development centers for all such spaces specified for reservation in accordance with paragraph (2) of this section, so long as they remain available and are able to be utilized by children eligible for funding under this chapter.

(4) Reimbursement by the Department to child development centers providing services on a year-round basis shall be based upon a 260-day year.

(5) The Mayor shall report to the Council of the District of Columbia, by July 1st each year, what impact the cost of living has had on the provision of day care services in the District during the preceding 12 months, and what the monthly utilization has been during that same period in each category of day care paid for by the City.

(6) The Department shall delegate the function of determining the eligibility of children to be served by each child development center whenever:

(A) The center has requested to perform this function; and

(B) The Department has determined, based on the center's current performance of this function or otherwise, that the center has exhibited a reasonable capability to carry out such function.



(7) Child development centers may retain fees collected from parents of eligible children, as specified by the fee scale set forth in § 3-305, to be used by the centers to enrich the quality of services provided or to cover emergency expenditures approved by the Department.

(8)(A) On or before January 31st of each year, beginning January 31, 1992, the Mayor shall calculate and submit to the Council a determination of the percentage increase, during the preceding calendar year, in the consumer price index for urban consumers for all items, as published by the United States Department of Labor ("Consumer Price Index").

(B) Beginning October 1, 1993, the rates established pursuant to paragraph (1) of this section shall be adjusted annually by an amount equal to the percentage increase, if any, in the consumer price index for urban consumers for all items, as determined by the Mayor. The Mayor shall publish notice of any proposed annual increase in payments to child development centers in the District of Columbia Register 30 days prior to the proposed increase. (1973 Ed., § 3-309; Sept. 19, 1979, D.C. Law 3-16, § 10, 26 DCR 20; Mar. 15, 1985, D.C. Law 5-174, § 2(b), 32 DCR 743; Dec. 16, 1987, D.C. Law 7-57, § 2(a), 34 DCR 7081; July 29, 1988, D.C. Law 7-136, § 2(a), 35 DCR 4259; Aug. 17, 1991, D.C. Law 9-19, title I, § 103(a), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-28, § 2(a), 38 DCR 4211.)

**Effect of amendments.** — D.C. Law 9-28, in (5), substituted "The Mayor shall report to" for "The Department shall report to the Mayor and"; in (8)(A), substituted "1992" for "1990", and in (8)(B), substituted "1993" for "1990".

**Temporary amendments of section.** — Section 103(a) of D.C. Law 9-19 in (5), substituted "The Mayor shall report to" for "The Department shall report to the Mayor and"; in (8)(A), substituted "1992" for "1990", and in (8)(B), substituted "1993" for "1990".

Section 301(a) of D.C. Law 9-19 provided that § 103 shall apply as of Oct. 1, 1990 and until the effective date of the Omnibus Budget Support Emergency Act of 1991.

Section 301(b) of D.C. Law 9-19 provided that beginning on the effective date of the Omnibus Budget Support Emergency Act of 1991 the rates for licensed child development centers, child development homes, and in-home caregivers in effect pursuant to the Day Care Policy Act shall revert to the rates in effect on Sept. 1, 1990.

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 103(a) of the Omnibus Budget Support Emergency Act of 1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390). Section 301 of D.C. Act 9-37 provided that Section 103 shall apply as of October 1, 1990 and until the effective date of the Omnibus Budget Support Emergency Act of 1991 and beginning on the effective date of the Om-

nibus Budget Support Emergency Act of 1991 the rates for licensed child development centers, child development homes, and in-home caregivers in effect pursuant to the Day Care Policy Act shall revert to the rates in effect on September 1, 1990.

For temporary amendment of section, see § 103(a) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 3-16.** — See note to § 3-301.

**Legislative history of Law 5-174.** — See note to § 3-306.

**Legislative history of Law 7-57.** — Law 7-57, the "Day Care Policy Act of 1979 Amendment Temporary Act of 1987," was introduced in Council and assigned Bill No. 7-305. The Bill was adopted on first and second readings on September 29, 1987 and October 13, 1987, respectively. Signed by the Mayor on October 26, 1987, it was assigned Act No. 7-90 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-136.** — Law 7-136, the "Day Care Policy Act of 1979 Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-291, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on May 3, 1988 and May 17, 1988, respectively. Signed by the Mayor on June 1, 1988, it was assigned Act No. 7-186 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-19.** — Law

9-19, the "Omnibus Budget Support Temporary Act of 1991," was introduced in Council and assigned Bill No. 9-205. The Bill was adopted on first and second readings on May 7, 1991, and June 4, 1991, respectively. Signed by the Mayor on June 21, 1991, it was assigned Act No. 9-43 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-28.** — Law 9-28, the "Day Care Policy Budget Conformity Amendment Act of 1991," was introduced in Council and assigned Bill No. 9-161, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 4, 1991, and June 18, 1991, re-

spectively. Signed by the Mayor on July 2, 1991, it was assigned Act No. 9-55 and transmitted to both Houses of Congress for its review.

**Application of Law 9-28.** — Section 3 of D.C. Law 9-28 provided that for the period from Oct. 1, 1990 and until Aug. 17, 1991, the rates established for licensed child development centers, child development homes, and in-home caregivers shall be increased by 4.7%. Beginning on Aug. 17, 1991, the rates for licensed child development centers, child development homes, and in-home caregivers in effect pursuant to the Day Care Policy Act shall revert to the rates in effect on Sept. 1, 1990.

### § 3-310. Payments to child development homes and to in-home caregivers.

(a) Payments to child development homes and to in-home caregivers shall be made according to the following rates:

(1) For full care:

(A) Child development homes shall receive \$12 per day for each child.

(B) In-home caregivers shall receive \$7.25 per day for each child for care during the day and \$8.25 per night for each child for night care.

(2) For part-time care:

(A) Child development homes shall receive \$6 per day for each child for before and after school care.

(B) In-home caregivers shall receive \$5.75 per day for each child for before and after school care and \$4 per night for each child for night care of less than 6 hours.

(b)(1) On or before January 31st of each year, beginning January 31, 1992, the Mayor shall calculate and submit to the Council a determination of the increase, during the preceding calendar year, in the consumer price index for urban consumers for all items, as published by the United States Department of Labor ("Consumer Price Index").

(2) Beginning October 1, 1993, the rates established pursuant to subsection (a) of this section shall be adjusted annually by an amount equal to the percentage increase, if any, in the consumer price index for urban consumers for all items, as determined by the Mayor. The Mayor shall publish notice of any proposed annual increase in payments to child development homes and in-home caregivers in the District of Columbia Register 30 days prior to the proposed increase. (1973 Ed., § 3-310; Sept. 19, 1979, D.C. Law 3-16, § 11, 26 DCR 20; Aug. 2, 1983, D.C. Law 5-23, § 2, 30 DCR 3339; Dec. 16, 1987, D.C. Law 7-57, § 2(b), 34 DCR 7081; July 29, 1988, D.C. Law 7-136, § 2(b), 35 DCR 4259; Aug. 17, 1991, D.C. Law 9-19, title I, § 103(b), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-28, § 2(b), 38 DCR 4211.)

**Effect of amendments.** — D.C. Law 9-28, in (b)(1) substituted "1992" for "1990", and in (b)(2), substituted "1993" for "1990".

**Temporary amendments of section.** —

Section 103(b) of D.C. Law 9-19 in (b)(1), substituted "1992" for "1990", and in (b)(2), substituted "1993" for "1990".

Section 301(a) of D.C. Law 9-19 provided



that § 103 shall apply as of Oct. 1, 1990 and until the effective date of the Omnibus Budget Support Emergency Act of 1991.

Section 301(b) of D.C. Law 9-19 provided that beginning on the effective date of the Omnibus Budget Support Emergency Act of 1991 the rates for licensed child development centers, child development homes, and in-home caregivers in effect pursuant to the Day Care Policy Act shall revert to the rates in effect on Sept. 1, 1990.

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 103(b) of the Omnibus Budget Support Emergency Act of 1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390).

Section 301 of D.C. Act 9-37 provided that Section 103 shall apply as of October 1, 1990 and until the effective date of the Omnibus Budget Support Emergency Act of 1991 and beginning on the effective date of the Omnibus Budget Support Emergency Act of 1991 the rates for licensed child development centers, child development homes, and in-home caregivers in effect pursuant to the Day Care Policy Act shall revert to the rates in effect on September 1, 1990.

For temporary amendment of section, see § 103(b) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 3-16.** — See note to § 3-301.

**Legislative history of Law 5-23.** — Law 5-23, the "Day Care Policy Act of 1979 Amendment Act of 1983," was introduced in Council and assigned Bill No. 5-163, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on May 10, 1983, and May 24, 1983, respectively. Signed by the Mayor on June 9, 1983, it was assigned Act No. 5-40 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-57.** — See note to § 3-309.

**Legislative history of Law 7-136.** — See note to § 3-309.

**Legislative history of Law 9-19.** — See note to § 3-309.

**Legislative history of Law 9-28.** — See note to § 3-309.

**Application of Law 9-28.** — Section 3 of D.C. Law 9-28 provided that for the period from Oct. 1, 1990 and until Aug. 17, 1991, the rates established for licensed child development centers, child development homes, and in-home caregivers shall be increased by 4.7%. Beginning on Aug. 17, 1991, the rates for licensed child development centers, child development homes, and in-home caregivers in effect pursuant to the Day Care Policy Act shall revert to the rates in effect on Sept. 1, 1990.

## § 3-311. Standards for in-home care.

Guidelines and standards for in-home care shall be as follows:

(1) In-home care within the child's own home, by an in-home caregiver, shall be used only when other day care plans are not feasible and in-home care offers greater benefits to the mother or other responsible relative and the child;

(2) In-home care may be provided, as appropriate and available, for children of eligible persons in training and during their subsequent employment, and for AFDC children living with caretaker relatives (not parents) when day or night care is required due to employment of the caretaker relative;

(3) In-home care shall be arranged by mutual agreement between the child's own mother or caretaker relative, the in-home caregiver, and the Department;

(4) Selection of the in-home caregiver shall be made by the parent, subject to final approval by the Department;

(5) The Department shall make direct payments to the in-home caregiver for services rendered;

(6) The in-home caregiver shall be of an age between 21 and 70 years;

(7) The in-home caregiver shall furnish the Department with the same medical certification of good health as that required for licensed caregivers



pursuant to § 403 (j) of Regulation No. 74-34 (Child Development Facilities Regulation). Further, the in-home caregiver shall furnish the Department with medical certification of good health for any child of her own whom she brings to the home of the mother or caretaker relative;

(8) Duties of the in-home caregiver shall be limited to supervision of the child or children in her care, preparation and serving of appropriate meals or snacks, and washing of dishes and utensils used in the preparation of food;

(9) The in-home caregiver shall have no more than 2 preschool children of her own;

(10) The in-home caregiver shall not care for children other than her own and the child or children of the AFDC mother or caretaker relative;

(11) If the in-home caregiver brings her own children to the home of the AFDC mother or caretaker relative, an agreement shall be reached between them as to the amount of food she brings for their needs; and

(12) The in-home caregiver shall have prior experience in child care, either with her own children or siblings. (1973 Ed., § 3-311; Sept. 19, 1979, D.C. Law 3-16, § 12, 26 DCR 20.)

**Section references.** — This section is referred to in § 3-301.

**Legislative history of Law 3-16.** — See note to § 3-301.

## **§ 3-312. Compliance with District regulation.**

Any child development center or child development home that contracts or agrees with the Department to provide day care shall comply with all applicable provisions of Regulation No. 74-34 (Child Development Facilities Regulation). (1973 Ed., § 3-312; Sept. 19, 1979, D.C. Law 3-16, § 13, 26 DCR 20.)

**Legislative history of Law 3-16.** — See note to § 3-301.

## **§ 3-313. Monitoring day care services; publication of procedures; compliance with federal regulations.**

(a) The Department shall be responsible for monitoring the provision of day care services to assure that adequate services are provided to the children and that contractual and other agreements are met.

(b) The Department shall develop and publish procedures that will assure that any licensed child development center or home in the District of Columbia can apply to provide day care services to eligible children.

(c) Child development facilities contracting or agreeing with the Department to provide day care, which are included in the programs for federal reimbursement, shall comply with all applicable federal regulations and requirements. (1973 Ed., § 3-313; Sept. 19, 1979, D.C. Law 3-16, § 14, 26 DCR 20.)

**Legislative history of Law 3-16. — See**  
note to § 3-301.

**§ 3-314. Authorization of grants to develop satellite child  
development home programs.**

The Department is hereby authorized to make grants to private agencies that work with child development homes and to licensed child development centers for the purpose of developing or operating satellite child development home programs. (1973 Ed., § 3-314; Sept. 19, 1979, D.C. Law 3-16, § 15, 26 DCR 20; Mar. 15, 1985, D.C. Law 5-174, § 2(c), 32 DCR 743.)

**Legislative history of Law 3-16. — See**  
note to § 3-301.

**Legislative history of Law 5-174. — See**  
note to § 3-306.

## CHAPTER 4. COMPENSATION OF VICTIMS OF VIOLENT CRIME.

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## § 3-401. Definitions.

For the purposes of this chapter the term:

(1) "Claimant" means any person who claims for compensation under this chapter and who is:

(A) A victim;

(B) A surviving dependent of a deceased victim; or

(C) A person who is responsible for the maintenance and support of a victim and who incurs expenses on behalf of the victim for economic loss incurred as a result of the injury or death of the victim. The term "claimant" shall not include a collateral source.

(2) "Collateral source" means a source of benefits or compensation received by or available to a claimant on account of economic loss which results directly or indirectly from a crime of violence and which is otherwise compensable under this chapter. Collateral source includes, but is not limited to, payment or benefits from:

(A) The offender;

(B) The United States, the District of Columbia, a state or territory of the United States or any of its political subdivisions, or any agency of the foregoing, including, but not limited to, Social Security, Medicare, Medicaid, workers' compensation, and public employees' disability compensation;

(C) Wage continuation programs of any employer; or

(D) Any contract of life, health, disability, liability, or fire and casualty insurance, and any contract providing prepaid health benefits.

(3)(A) "Crime of violence" or "crime" means the offense of or the attempt to commit the offense of arson, assault, forcible sodomy, kidnapping, maliciously disfiguring another, manslaughter, murder, mayhem, rape, riot, robbery, sodomy of a child less than 16 years of age, unlawful use of an explosive, or any violation of § 40-716 (b), notwithstanding that the offender lacked capacity to commit the offense by reason of infancy, insanity, intoxication, or otherwise.

(B) The term "crime of violence" or "crime" includes an offense where the perpetrator and victim are members of the same family or household unless an award of compensation to the victim would unjustly enrich the offender.

(C) The term "crime of violence" or "crime" shall not include the operation of an automobile, boat, aircraft, or other vehicle that results in injury or death unless:



(i) The injury or death was intentionally inflicted through use of an automobile, boat, aircraft, or vehicle; or

(ii) The injury or death resulted from a violation of § 40-716 (b).

(4) "Dependent" means any person who is a survivor of a victim and who depended upon the victim for more than one half of his or her support at the time of the commission of the crime upon which the claim is based.

(5) "Economic loss" means:

(A) For a victim or person responsible for the maintenance of a victim as described in paragraph (1)(C) of this section:

(i) All actual and reasonable expenses fairly incurred for ambulance, hospital, surgical, nursing, dental, prosthetic, and other medical and related professional services and devices relating to physical or psychiatric care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by District of Columbia law;

(ii) All actual and reasonable expenses fairly incurred for physical and occupational therapy and rehabilitation; and

(iii) Loss of net income; and

(B) For a dependent or person responsible for the maintenance of a victim as described in paragraph (1)(C) of this section:

(i) Actual expenses of the victim's funeral and burial but not to the extent that the expenses exceed \$2,000;

(ii) Loss of the victim's support;

(iii) Loss of the victim's services, including housekeeping and child care services; and

(iv) All actual and reasonable expenses incurred for medical treatment (including ambulance, hospital, surgical, nursing, and other medical and professional services and devices) of the victim prior to his or her death which results from a crime of violence.

(C) The term "economic loss" shall not include pain and suffering.

(6) "Mayor" means the Mayor of the District of Columbia or the Mayor's designated agent.

(7)(A) "Victim" means any person, except a law enforcement or fire officer engaged in performance of his or her duty, who is killed or injured in the District of Columbia ("District") or who is a resident of the District of Columbia and is killed or injured outside the District of Columbia in a state that does not have a crime victims compensation program that is eligible for funding under the Victims of Crime Act of 1984, P.L. 98-473, as amended (42 U.S.C. 10601 et seq.):

(i) As a result of a crime of violence;

(ii) While assisting lawfully to apprehend a person reasonably suspected of committing or attempting to commit a crime of violence;

(iii) While assisting a person against whom a crime of violence has been committed or attempted, if the assistance was rendered in a reasonable manner;

(iv) While attempting to prevent the commission of a crime of violence; or

(v) As a result of a violation of § 40-716 (b), or a comparable state law regarding driving while intoxicated.

(B) The term "victim" shall not include any person who:

(i) Commits or aids in the commission of the crime upon which a claim is based; or

(ii) Is injured or killed as an indirect result of his or her participation in an unlawful or criminal activity. (Apr. 6, 1982, D.C. Law 4-100, § 2, 29 DCR 969; Sept. 26, 1990, D.C. Law 8-164, § 2, 37 DCR 4824.)

**Emergency act amendments.** — For temporary provision of civil process for merchants in the District of Columbia to recover damages resulting from fraud, shoplifting or theft, see §§ 2-7 of the Merchant's Civil Recovery for Criminal Conduct Emergency Act of 1991 (D.C. Act 9-110, November 25, 1991, 38 DCR 7304).

For temporary provision, on an emergency basis, for a civil process for merchants in the District of Columbia to recover damages resulting from fraud, shoplifting or theft, see §§ 2-7 of the Merchant's Civil Recovery for Criminal Conduct Congressional Recess Emergency Act of 1992 (D.C. Act 9-155, February 21, 1992, 39 DCR 1354).

**Legislative history of Law 4-100.** — Law 4-100, the "Victims of Violent Crime Compensation Act of 1981," was introduced in Council and assigned Bill No. 4-361, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on January 26, 1982, and February 9, 1982, respectively. Signed by the Mayor on February 22, 1982, it was assigned Act No. 4-158 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-164.** — Law 8-164, the "Victims of Violent Crime Compensation Act of 1981 Conforming Amendments Act of 1990," was introduced in Council and assigned Bill No. 8-540, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 12, 1990, and June 26, 1990, respectively. Signed by the Mayor on July 12, 1990, it was assigned Act No. 8-229 and transmitted to both Houses of Congress for its review.

**Merchant's Civil Recovery for Criminal Conduct.** — Sections 2-7 of D.C. Law 9-97 effective May 7, 1992, provide, on a temporary basis, a civil process for merchants in the District of Columbia to recover damages resulting from fraud, shoplifting, or theft.

Section 8(b) of D.C. Law 9-97 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the Merchant's Civil Recovery for Criminal Conduct Act of 1991, whichever occurs first.

**Cited in** *Morris v. District of Columbia Dep't of Emp. Servs.*, App. D.C., 530 A.2d 683 (1987); *Randall v. District of Columbia Dep't of Emp. Servs.*, App. D.C., 551 A.2d 90 (1988).

## § 3-402. Eligibility.

(a) Except as provided in subsection (b) of this section, a claimant is eligible for compensation under this chapter subject to the following conditions:

(1) The crime of violence upon which the claim is based was reported to the Metropolitan Police Department not more than 7 days after it occurred, except that this requirement may be waived for good cause shown.

(2) The claimant files a claim on a form supplied by the Mayor and submits all information and documents as may be required within 180 days after the crime occurred, except that this time limit may be extended for good cause shown.

(3) Repealed.

(4) The claimant has suffered economic loss in an amount exceeding \$100 as a result of the crime of violence upon which the claim is based.

(5) The offender will not be unjustly enriched by an award of compensation to the claimant, except that this requirement may be waived in cases involving extraordinary circumstances where the interests of justice so require.



(b) A claimant shall not be eligible for compensation under this chapter if the claimant committed or aided in the commission of the crime upon which the claim is based. (Apr. 6, 1982, D.C. Law 4-100, § 3, 29 DCR 969; Aug. 9, 1986, D.C. Law 6-136, § 2(a), 33 DCR 3796.)

**Section references.** — This section is referred to in § 3-411.

**Legislative history of Law 4-100.** — See note to § 3-401.

**Legislative history of Law 6-136.** — Law 6-136, the "Victims of Violent Crimes Compensation Act of 1981 Amendments Act of 1986," was introduced in Council and assigned Bill No. 6-378, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on May 27, 1986, and June 10, 1986, respectively. Signed by the Mayor on June 13, 1986, it was assigned Act No. 6-174 and transmitted to both Houses of Congress for its review.

**Finding of ineligibility unsupported.** — Department of Employment Services' finding that claimant provoked an argument, without further explanation as to his criminal culpability, was insufficient to support the agency's de-

cision to deny eligibility. *Cooper v. District of Columbia Dep't of Emp. Servs.*, App. D.C., 588 A.2d 1172 (1991).

Where the Department of Employment Services' only factual findings were that claimant began an argument with 2 men which escalated into a physical confrontation during which claimant was severely beaten, it failed to establish either the requisite finding of participation in the unlawful activity on which claimant based his claim for compensation or the type of misconduct necessary to deny eligibility. *Cooper v. District of Columbia Dep't of Emp. Servs.*, App. D.C., 588 A.2d 1172 (1991).

Cited in *Morris v. District of Columbia Dep't of Emp. Servs.*, App. D.C., 530 A.2d 683 (1987); *Randall v. District of Columbia Dep't of Emp. Servs.*, App. D.C., 551 A.2d 90 (1988).

## § 3-403. Awards of compensation.

(a) *Limitation.* — Claims shall be processed and maintained in the order of their filing, but no final award of compensation shall be made unless the Crime Victims' Compensation Fund contains sufficient monies to pay the award.

(b) *Amount.* — Subject to the provisions of subsection (c) of this section, the amount of compensation awarded shall be equal to the amount of the claimant's economic loss, decreased by all amounts received by or available to the claimant from collateral sources. No compensation shall be awarded under this chapter in an amount exceeding \$25,000.

(c) *Reduction or denial.* — (1) An award of compensation shall be denied if it is determined that the claimant will not suffer undue financial hardship if not granted financial assistance pursuant to this chapter. A claimant suffers undue financial hardship if the claimant cannot maintain the customary level of health, safety, and education for himself or herself or his or her dependents. In determining whether the claimant will suffer undue financial hardship, all relevant factors shall be taken into consideration, including, but not limited to: (A) The number of the claimant's dependents; (B) the usual and ordinary living expenses of the claimant and the claimant's dependents; (C) any special needs of the claimant and the claimant's dependents; (D) the claimant's income and potential earning capacity; and (E) the claimant's resources. If the claimant is 65 years of age or older, the value of the claimant's house and any savings up to an amount of \$10,000 shall not be taken into consideration in determining whether the claimant will suffer undue financial hardship.

(2) An award of compensation may be reduced, reconsidered, or denied because of misconduct of the victim or claimant that contributed to the crime or the amount of economic loss.



(3) An award of compensation may be reduced, reconsidered, or denied if the victim or claimant has not reasonably cooperated with law enforcement officials to apprehend and prosecute the offender, except that refusal of a victim or claimant to testify against the offender may be excused if testifying would subject the victim or claimant to a substantial risk of serious physical or emotional injury. It is not necessary that an offender either be apprehended or convicted in order for compensation to be awarded under this chapter.

(d) *Manner of payment.* — (1) Compensation awarded under this chapter may be paid in lump sum or in installments.

(2) Payments for allowable expenses may be paid directly to a service provider.

(3) If there are 2 or more claimants entitled to an award of compensation as a result of the death or injury of a victim, the award shall be apportioned among the claimants. (Apr. 6, 1982, D.C. Law 4-100, § 4, 29 DCR 969.)

**Section references.** — This section is referred to in § 3-413.

**Legislative history of Law 4-100.** — See note to § 3-401.

**Compensation for loss of support and loss of services.** — For discussion of interpretations to be given section in determining a claimant's eligibility for compensation for loss of support and loss of services, see *Morris v. District of Columbia Dep't of Emp. Servs.*, App. D.C., 530 A.2d 683 (1987).

**Claimant's activities after decision not to prosecute did not support reduction or denial of award.** — Subsection (c)(3) provided no support for reduction or denial of a claim based on a claimant's persistent protests after the prosecutor's decision not to prosecute. *Randall v. District of Columbia Dep't of Emp. Servs.*, App. D.C., 551 A.2d 90 (1988).

## § 3-404. Emergency awards.

If it appears likely that a final award will be made and that the claimant will suffer undue hardship if immediate financial assistance is not granted, an emergency award in an amount not to exceed \$1,000 may be made prior to a final determination on a claim. The amount of the emergency award shall be deducted from the final award or repaid by the claimant if it is determined that no compensation will be awarded. (Apr. 6, 1982, D.C. Law 4-100, § 5, 29 DCR 969.)

**Section references.** — This section is referred to in § 3-413.

**Legislative history of Law 4-100.** — See note to § 3-401.

## § 3-405. Attorney's fees.

(a) In addition to the amount of compensation awarded to a successful claimant, a reasonable fee may be awarded to the claimant's attorney for services rendered in connection with any claim under this chapter. The fee may not exceed 10 per centum of the amount of the claimant's award or \$1,000, whichever is less.

(b) Except for necessary costs, an attorney shall not charge, demand, receive, or collect any fee for services rendered in connection with any claim under this chapter in an amount larger than permitted by this section. (Apr. 6, 1982, D.C. Law 4-100, § 6, 29 DCR 969.)

**Section references.** — This section is referred to in § 3-413.

**Legislative history of Law 4-100.** — See note to § 3-401.

### § 3-406. Preservation of civil actions; subrogation.

(a) Nothing in this chapter shall deprive the claimant or the claimant's successors in interest of the right to recover damages or restitution from the offender.

(b) The District of Columbia shall be subrogated to the claimant's right against the offender to the extent of any compensation awarded under this chapter. The District of Columbia may initiate a suit against the offender for damages or restitution. The District of Columbia shall be notified by the plaintiff of the institution of any suit against the offender for damages or restitution and may intervene in such suit. The District of Columbia shall have a lien on any recovery made from such suit. All monies recovered through such subrogation shall be deposited in the District of Columbia Treasury to the credit of the Crime Victims' Compensation Fund. (Apr. 6, 1982, D.C. Law 4-100, § 7, 29 DCR 969.)

**Section references.** — This section is referred to in § 3-413.

**Legislative history of Law 4-100.** — See note to § 3-401.

### § 3-407. Waiver of rights void; award exempt from execution or attachment.

Any agreement by a person to waive, release, or commute his or her rights under this chapter is void. Compensation awarded under this chapter is exempt from execution, attachment, or other remedy for recovery or collection of debt, except for expenses resulting from injury or death which is the basis for the claim. (Apr. 6, 1982, D.C. Law 4-100, § 8, 29 DCR 969.)

**Legislative history of Law 4-100.** — See note to § 3-401.

### § 3-408. False claims.

Any person who knowingly submits false information in support of a claim under this chapter or knowingly suppresses relevant information concerning a claim under this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$2,000 or imprisoned for not more than 1 year, or both. A person convicted of an offense under this section shall forfeit any compensation under this chapter and shall reimburse and repay to the District of Columbia any compensation received pursuant to this chapter. (Apr. 6, 1982, D.C. Law 4-100, § 9, 29 DCR 969.)

**Section references.** — This section is referred to in § 3-413.

**Legislative history of Law 4-100.** — See note to § 3-401.

**§ 3-409. Administration; annual report to Council.**

(a) The Mayor shall administer the provisions of this chapter, and shall issue such rules as may be necessary to carry out the provisions and purposes of this chapter.

(b) The Mayor shall report annually to the Council of the District of Columbia on the status and activities of the victims' compensation program. The report shall include, but is not limited to, the following information: Total number of claims filed, the number of claims approved and the amount of each award, the number of claims denied, the number of contested cases, the number of cases in which the claimant was represented by an attorney, the cumulative total of attorneys' fees paid, the number of cases pending, and the future liability of the Crime Victims' Compensation Fund. (Apr. 6, 1982, D.C. Law 4-100, § 10, 29 DCR 969.)

**Legislative history of Law 4-100.** — See note to § 3-401.

**Delegation of authority under District of**

**Columbia Victims of Violent Crime Compensation Act of 1981.** — See Mayor's Order 84-157, August 29, 1984.

**§ 3-410. Duties and powers of Mayor.**

The Mayor shall:

(1) Investigate claims filed pursuant to this chapter and request from any agency or department of the District of Columbia government such information, data, and assistance as will enable the Mayor to determine if, in fact, a crime was committed or attempted and the extent, if any, to which the victim or claimant was responsible for his or her injury or death.

(2) Determine all claims filed pursuant to this chapter and reinvestigate or reopen cases as deemed necessary.

(3) Conduct hearings as provided in § 3-411 (b); administer oaths or affirmations; examine any witnesses; issue subpoenas to compel the attendance and testimony of witnesses, or the production of books, papers, documents and other evidence; and take or cause to be taken depositions or affidavits.

(4) Require and direct medical examination of victims if deemed necessary.

(5) Do all things in conformity with the law which may be necessary to discharge the administration of this chapter effectively. (Apr. 6, 1982, D.C. Law 4-100, § 11, 29 DCR 969.)

**Legislative history of Law 4-100.** — See note to § 3-401.

**§ 3-411. Procedure.**

(a) **Filing.** — (1) A claim shall be initiated when the claimant timely submits to the Mayor a completed claim form under oath or affirmation.

(2) Repealed.

(3) Claims may be filed in person or by mail.



(4) A claim may be filed by a person eligible for compensation as provided in § 3-402, or if such person is a minor or legally incompetent, by his or her parent, guardian, or personal representative.

(b) *Determination of claim.* — (1) Upon receipt of a claim, the Mayor shall examine all written information submitted by the claimant and other such documentary evidence. The Mayor may require from the claimant such additional information and shall conduct such investigation as is necessary to enable the Mayor to determine whether the claimant is eligible for compensation, and the amount, if any, of compensation to be awarded.

(2) The Mayor shall make a preliminary determination of the claimant's eligibility and the amount, if any, of compensation to be awarded. A notice of the preliminary determination shall be sent to the claimant by first class mail. The notice shall also include the date, time, and place of a hearing to be held not less than 14 days after the notice is mailed. If the claimant chooses to forego the hearing, the preliminary determination shall be made final. If new evidence is obtained which would change the determination, the determination may be modified. If the determination is modified, notice of the revised determination and notice of hearing shall be mailed to the claimant. If the claimant chooses to forego the hearing or does not appear, the modified determination shall be made final.

(3) If the claimant chooses to contest the preliminary or modified determination, the case shall be determined by the Mayor in accordance with § 1-1509 (contested cases).

(4) The claimant may agree in writing to a final determination at any time.

(5) The claimant shall be given written notice of the final determination of the claim. If the final determination was made pursuant to a hearing, the notice shall state findings of fact and conclusions of law.

(6) A case may be reopened at any time if new evidence reveals that the claimant was not eligible, was guilty of misconduct that contributed to the crime or to the economic loss, knowingly provided false information, or suppressed relevant information concerning a claim.

(c) *Confidentiality.* — The record of a hearing conducted pursuant to subsection (b)(3) of this section shall be a public record. However, any record or report obtained by the Mayor, the confidentiality of which is protected by any other law or regulation, shall remain confidential subject to such law or regulation. (Apr. 6, 1982, D.C. Law 4-100, § 12, 29 DCR 969; Aug. 9, 1986, D.C. Law 6-136, § 2(b), 33 DCR 3796.)

**Section references.** — This section is referred to in §§ 3-410 and 3-413.

**Legislative history of Law 4-100.** — See note to § 3-401.

**Legislative history of Law 6-136.** — See note to § 3-402.

**Finding of ineligibility unsupported.** — Department of Employment Services' finding that claimant provoked an argument, without further explanation as to his criminal culpability, was insufficient to support the agency's de-

cision to deny eligibility under this act. *Cooper v. District of Columbia Dep't of Emp. Servs.*, App. D.C., 588 A.2d 1172 (1991).

Where the Department of Employment Services' only factual findings were that claimant began an argument with 2 men which escalated into a physical confrontation during which claimant was severely beaten, it failed to establish either the requisite finding of participation in the unlawful activity on which claimant based his claim for compensation or

the type of misconduct necessary to deny eligibility. *Cooper v. District of Columbia Dep't of Emp. Servs.*, App. D.C., 588 A.2d 1172 (1991).

**Exhaustion of administrative remedies required.** — Subsection (b)(2) of this section provides that the agency's preliminary determination shall become final if the claimant of victims' compensation chooses to forego the hearing, and § 3-412 provides generally that a

final determination may be appealed to the Court of Appeals, but such language does not relieve the petitioner of his obligation to exhaust administrative remedies. *Siler v. District of Columbia Dep't of Emp. Servs.*, App. D.C., 525 A.2d 620 (1987).

**Cited in** *Morris v. District of Columbia Dep't of Emp. Servs.*, App. D.C., 530 A.2d 683 (1987).

## § 3-412. Judicial review.

A final determination by the Mayor under this chapter may be appealed to the District of Columbia Court of Appeals in accordance with § 1-1510. (Apr. 6, 1982, D.C. Law 4-100, § 13, 29 DCR 969.)

**Legislative history of Law 4-100.** — See note to § 3-401.

**Exhaustion of administrative remedies required.** — Section 3-411 (b)(2) provides that the agency's preliminary determination shall become final if the claimant of victims' compensation chooses to forego the hearing, and this section provides generally that a final determination may be appealed to the Court of

Appeals, but such language does not relieve the petitioner of his obligation to exhaust administrative remedies. *Siler v. District of Columbia Dep't of Emp. Servs.*, App. D.C., 525 A.2d 620 (1987).

**Cited in** *Cooper v. District of Columbia Dep't of Emp. Servs.*, App. D.C., 588 A.2d 1172 (1991).

## § 3-413. Crime Victims' Compensation Fund.

(a) A fund is established in the District of Columbia, to be known as the Crime Victims' Compensation Fund ("Fund"), for the purpose of accounting for the financial operations of this chapter. The Fund shall be classified by the Mayor pursuant to § 47-375. The Fund shall be administered by the Mayor.

(b) All compensation and attorneys' fees awarded under §§ 3-403, 3-404, and 3-405 shall be paid from and be subject to the availability of monies in the Fund. ~~All administrative costs necessary to carry out this chapter shall be borne by the General Fund.~~

(c) The monies in the Fund shall consist of, and there shall be deposited in the District Treasury to the credit of the Fund, any appropriations to the funds under § 3-415, monies recovered through subrogation under § 3-406, repayments under §§ 3-404 and 3-408, ~~costs imposed under § 3-414~~, filing fees under § 3-411, and ~~monies received from the federal government or any other public or private source for the purposes of the Fund.~~ Monies in the Fund may be invested by the Mayor in accordance with § 47-342. (Apr. 6, 1982, D.C. Law 4-100, § 14, 29 DCR 969.)

**Cross references.** — As to duties of Mayor concerning fund accounting, see § 47-375.

**Legislative history of Law 4-100.** — See note to § 3-401.

§ 3-414. Costs.

In addition to and separate from any punishment imposed, a cost of at least \$20 and not more than \$500 for each felony charge, and a cost of \$10 for each misdemeanor charge, shall be imposed upon each person convicted of or pleading guilty or nolo contendere to such charge in the Superior Court of the District of Columbia ("Court"). The amount of costs assessed under this section for felonies shall be determined by the courts on the basis of the estimated severity of the injury or loss caused by the crime. The decision of the Court regarding costs shall be final. If at the time of conviction or plea any such person is indigent, as determined by the Court, and is later employed for wages, salary or other compensation while released on probation or parole, or is incarcerated in any facility of the Department of Corrections and is paid wages for work performed therein, the amount of the cost shall be paid from such wages, salary, or other compensation. All such costs shall be payable to the District of Columbia Treasurer for deposit to the credit of the Crime Victims' Compensation Fund. (Apr. 6, 1982, D.C. Law 4-100, § 15, 29 DCR 969.)

**Section references.** — This section is referred to in § 3-413.

**Legislative history of Law 4-100.** — See note to § 3-401.

**Contempt made misdemeanor by imposition of penalty.** — Because contempt has no statutory penalty limit, where the penalty ac-

tually imposed makes the offense a misdemeanor, payment to the Victims' Fund is required by this section. In re Marshall, App. D.C., 549 A.2d 311 (1988).

Cited in United States v. A.B., 117 WLR 785 (Super. Ct. 1989).

§ 3-415. Appropriations.

Funds are authorized to be appropriated as necessary to carry out the purposes of this chapter. (Apr. 6, 1982, D.C. Law 4-100, § 16, 29 DCR 969.)

**Section references.** — This section is referred to in § 3-413.

**Legislative history of Law 4-100.** — See note to § 3-401.



## CHAPTER 4A. MERCHANT'S CIVIL RECOVERY FOR CRIMINAL CONDUCT.

Sec.

3-441. Definitions.

3-442. Liability and damages.

3-443. Criminal proceedings.

Sec.

3-444. Merchant's options.

3-445. Jurisdiction.

3-446. Attorney's fees.

### § 3-441. Definitions.

For purposes of this chapter, the term:

(1) "Fraud" shall have the same meaning as that term is used in § 22-3821.

(2) "Juvenile" means a person under 18 years of age.

(3) "Merchant" means a person who does or would sell, lease, or transfer, either directly or indirectly, consumer goods or services, or a person who does or would supply the goods or services which are or would be the subject matter of a trade practice.

(4) "Shoplifting" shall have the same meaning as that term has in § 22-3813(a).

(5) "Theft" shall have the same meaning as that term is used in § 22-3811. (May 7, 1992, D.C. Law 9-97, § 2, 39 DCR 22; May 16, 1992, D.C. Law 9-98, § 2, 39 DCR 678.)

**Temporary addition of chapter.** — D.C. Law 9-97 enacted this chapter.

Section 8(b) of D.C. Law 9-97 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the Merchant's Civil Recovery for Criminal Conduct of 1991, whichever occurs first.

**Emergency act amendments.** — For temporary addition of chapter, see §§ 2-7 of the Merchant's Civil Recovery for Criminal Conduct Emergency Act of 1991 (D.C. Act 9-110, November 25, 1991, 38 DCR 7304).

For temporary addition of chapter, see §§ 2-7 of the Merchant's Civil Recovery for Criminal Conduct Congressional Recess Emergency Act of 1992 (D.C. Act 9-155, February 21, 1992, 39 DCR 1354).

For temporary addition of section, see § 2 of the Merchant's Civil Recovery for Criminal Conduct Emergency Amendment Act of 1992 (D.C. Act 9-205, May 14, 1992, 39 DCR 3649).

**Legislative history of Law 9-97.** — Law

9-97, the "Merchant's Civil Recovery for Criminal Conduct Temporary Act of 1991," was introduced in Council and assigned Bill No. 9-351. The Bill was adopted on first and second readings on November 5, 1991, and December 3, 1991, respectively. Signed by the Mayor on December 20, 1991, it was assigned Act No. 9-124 and transmitted to both Houses of Congress for its review. D.C. Law 9-97 became effective on May 7, 1992.

**Legislative history of Law 9-98.** — Law 9-98, the "Merchant's Civil Recovery for Criminal Conduct Act of 1992," was introduced in Council and assigned Bill No. 19-152, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on December 3, 1991, and January 7, 1992, respectively. Signed by the Mayor on January 28, 1992, it was assigned Act No. 9-138 and transmitted to both Houses of Congress for its review. D.C. Law 9-98 became effective on May 16, 1992.

### § 3-442. Liability and damages.

(a) Anyone who commits an offense of fraud, shoplifting, or theft from a merchant shall be civilly liable to the merchant for treble the amount of actual damages; and

(1) The retail value of any goods or merchandise stolen if the goods or merchandise are not recovered;

(2) The loss of value of the goods or merchandise stolen if the goods or merchandise are recovered; or

(3) A minimum of \$50 in damages, whichever is greater.

(b) The parent or guardian shall be liable for any acts or offenses committed by a juvenile under this chapter. (May 7, 1992, D.C. Law 9-97, § 3, 39 DCR 22; May 16, 1992, D.C. Law 9-98, § 3, 39 DCR 678.)

**Temporary addition of chapter.** — See note to § 3-441.

**Emergency act amendments.** — For temporary addition of chapter, see §§ 2-7 of the Merchant's Civil Recovery for Criminal Conduct Emergency Act of 1991 (D.C. Act 9-110, November 25, 1991, 38 DCR 7304).

For temporary addition of chapter, see

§§ 2-7 of the Merchant's Civil Recovery for Criminal Conduct Congressional Recess Emergency Act of 1992 (D.C. Act 9-155, February 21, 1992, 39 DCR 1354).

**Legislative history of Law 9-97.** — See note to § 3-441.

**Legislative history of Law 9-98.** — See note to § 3-441.

## § 3-443. Criminal proceedings.

(a) The recovery of damages from the alleged offender shall not prohibit criminal prosecution of the alleged offender.

(b) The recovery of civil damages by a merchant or a finding of liability under this chapter shall not be admissible in a criminal proceeding.

(c) A conviction or plea of guilty of fraud, shoplifting, or theft is not a prerequisite to the maintenance of a civil action authorized by this chapter. (May 7, 1992, D.C. Law 9-97, § 4, 39 DCR 22; May 16, 1992, D.C. Law 9-98, § 4, 39 DCR 678; July 22, 1992, D.C. Law 9-132, § 4(a), 39 DCR 4058; Sept. 29, 1992, D.C. Law 9-163, § 5(a), 39 DCR 5705.)

**Effect of amendments.** — D.C. Law 9-163, in (a), inserted "not".

**Temporary addition of chapter.** — See note to § 3-441.

**Temporary amendments of section.** — Section 4(a) of D.C. Law 9-132 in (a) inserted "not".

Section 5(b) of D.C. Law 9-132 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary addition of chapter, see §§ 2-7 of the Merchant's Civil Recovery for Criminal Conduct Emergency Act of 1991 (D.C. Act 9-110, November 25, 1991, 38 DCR 7304).

For temporary addition of chapter, see §§ 2-7 of the Merchant's Civil Recovery for Criminal Conduct Congressional Recess Emergency Act of 1992 (D.C. Act 9-155, February 21, 1992, 39 DCR 1354).

**Legislative history of Law 9-97.** — See note to § 3-441.

**Legislative history of Law 9-98.** — See note to § 3-441.

**Legislative history of Law 9-132.** — Law 9-132, the "Retired Police Officer Redeployment Temporary Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-487. The Bill was adopted on first and second readings on April 7, 1992, and May 6, 1992, respectively. Signed by the Mayor on May 28, 1992, it was assigned Act No. 9-217 and transmitted to both Houses of Congress for its review. D.C. Law 9-132 became effective on July 22, 1992.

**Legislative history of Law 9-163.** — Law 9-163, the "Retired Police Officer Redeployment Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-498, which was referred to the Committee on Government Operations and reassigned to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 2, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 21, 1992, it was assigned Act No. 9-258 and transmitted to both Houses of Congress for its review. D.C. Law 9-163 became effective on September 29, 1992.

### § 3-444. Merchant's options.

(a) A merchant who suffers damages as a result of fraud, shoplifting, or theft, may recover the damages by submitting written demand to the alleged offender or the parent or guardian of a juvenile alleged offender.

(b) The written demand shall:

(1) Be delivered or mailed to the alleged offender, or parent or guardian of a juvenile alleged offender, at least 30 days prior to the filing of any suit for damages;

(2) Specify the alleged criminal conduct and the damages incurred as a result of the conduct;

(3) Specify the amount which the merchant is entitled to receive under this chapter and that if payment of this amount is made in accordance with the written demand or the terms of a written agreement between the merchant and the alleged offender or the parent or guardian of the juvenile alleged offender, within 30 days of the date of service of the demand, the merchant may bring suit for damages; and

(4) Specify that if payment of the specified amount is not made, an agreement of payments is not reached, or payments are not made in accordance with the terms of an agreement, within 30 days of the date of service of the demand, the merchant may bring a suit for damages.

(c) When the merchant receives payment of the specified amount or payment in accordance with the agreement for payments, the merchant shall deliver or mail an acknowledgement of payment letter to the alleged offender within 5 business days of receipt of payment. (May 7, 1992, D.C. Law 9-97, § 5, 39 DCR 22; May 16, 1992, D.C. Law 9-98, § 5, 39 DCR 678; July 22, 1992, D.C. Law 9-132, § 4(b), (c), 39 DCR 4058; Sept. 29, 1992, D.C. Law 9-163, § 5(b)-(d), 39 DCR 5705.)

**Effect of amendments.** — D.C. Law 9-163 added (b)(4); and in (c), substituted "of" for "or" following "acknowledgement."

**Temporary addition of chapter.** — See note to § 3-441.

**Temporary amendments of section.** — Section 4(c) of D.C. Law 9-132 added (b)(4).

Section 5(b) of D.C. Law 9-132 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary addition of chapter, see §§ 2-7 of the Merchant's Civil Recovery for Criminal Conduct Emergency Act of 1991 (D.C. Act 9-110, November 25, 1991, 38 DCR 7304).

For temporary addition of chapter, see §§ 2-7 of the Merchant's Civil Recovery for Criminal Conduct Congressional Recess Emergency Act of 1992 (D.C. Act 9-155, February 21, 1992, 39 DCR 1354).

**Legislative history of Law 9-97.** — See note to § 3-441.

**Legislative history of Law 9-98.** — See note to § 3-441.

**Legislative history of Law 9-132.** — See note to § 3-443.

**Legislative history of Law 9-163.** — See note to § 3-443.

### § 3-445. Jurisdiction.

A suit for damages and penalties may be brought in the Superior Court of the District of Columbia. (May 7, 1992, D.C. Law 9-97, § 6, 39 DCR 22; May 16, 1992, D.C. Law 9-98, § 6, 39 DCR 678.)



**Temporary addition of chapter.** — See note to § 3-441.

**Emergency act amendments.** — For temporary addition of chapter, see §§ 2-7 of the Merchant's Civil Recovery for Criminal Conduct Emergency Act of 1991 (D.C. Act 9-110, November 25, 1991, 38 DCR 7304).

For temporary addition of chapter, see

§§ 2-7 of the Merchant's Civil Recovery for Criminal Conduct Congressional Recess Emergency Act of 1992 (D.C. Act 9-155, February 21, 1992, 39 DCR 1354).

**Legislative history of Law 9-97.** — See note to § 3-441.

**Legislative history of Law 9-98.** — See note to § 3-441.

## § 3-446. Attorney's fees.

Attorneys' fees and costs shall be awarded under this chapter without regard to ability to pay. (May 7, 1992, D.C. Law 9-97, § 7, 39 DCR 22; May 16, 1992, D.C. Law 9-98, § 7, 39 DCR 678.)

**Temporary addition of chapter.** — See note to § 3-441.

**Emergency act amendments.** — For temporary addition of chapter, see §§ 2-7 of the Merchant's Civil Recovery for Criminal Conduct Emergency Act of 1991 (D.C. Act 9-110, November 25, 1991, 38 DCR 7304).

For temporary addition of chapter, see

§§ 2-7 of the Merchant's Civil Recovery for Criminal Conduct Congressional Recess Emergency Act of 1992 (D.C. Act 9-155, February 21, 1992, 39 DCR 1354).

**Legislative history of Law 9-97.** — See note to § 3-441.

**Legislative history of Law 9-98.** — See note to § 3-441.

## CHAPTER 5. HEALTH-CARE ASSISTANCE REIMBURSEMENT.

Sec.	Sec.
3-501. Definitions.	3-506. Notice.
3-502. Right to reimbursement established; subrogation and assignment.	3-507. Lien.
3-503. Set-off.	3-508. Rules.
3-504. Enforcement of right; waiver.	3-509. Existing rights to reimbursement pre- served.
3-505. Settlement probative of liability.	

## § 3-501. Definitions.

For the purposes of this chapter, the term:

(1) "Beneficiary" means any individual who has received health-care assistance from the District and, if applicable, that individual's guardian, conservator, personal representative, estate, dependents, and survivors.

(2) "District" means the District of Columbia.

(3) "Health-care assistance" means health or health-related care and treatment that the District has undertaken to provide or pay for free of charge or at a discounted rate, and includes future care and treatment that the Mayor, in his or her discretion, reasonably anticipates will be provided or paid for by the District. The term "health-care assistance" includes, but shall not be limited to, medical, surgical, nursing, dental, hospital, nursing home, hospice, and home care, prostheses and medical appliances, physical and occupational therapy, counseling and psychotherapy, social work, related transportation costs, and funeral and burial expenses.

(4) "Third party" means a third-party tortfeasor, beneficiary's insurer, or any other individual, organization, or entity that is or may be liable to a beneficiary, in tort or contract, for all or part of the care and treatment the District has undertaken to provide or pay for as health-care assistance. (June 14, 1984, D.C. Law 5-86, § 2, 31 DCR 2098.)

**Legislative history of Law 5-86.** — Law 5-86, the "Health-Care Assistance Reimbursement Act of 1984," was introduced in Council and assigned Bill No. 5-271, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on March 27, 1984, and April 10, 1984,

respectively. Signed by the Mayor on April 26, 1984, it was assigned Act No. 5-124 and transmitted to both Houses of Congress for its review.

**Delegation of authority under D.C. Law 5-86.** — See Mayor's Order 85-56, May 17, 1985.

## § 3-502. Right to reimbursement established; subrogation and assignment.

(a) Whenever the District provides health-care assistance to a beneficiary who has suffered an injury or illness under circumstances creating liability in a third party or under circumstances that would have created such a liability had the beneficiary instead of the District incurred the expense of the health-care assistance, it shall have an independent, direct cause of action against that third party for the unreimbursed value or cost of the health-care assistance provided.

(b) As soon as the District begins providing health-care assistance to a beneficiary, it shall become subrogated to any right or claim that the beneficiary has against a third party for the care and treatment it has undertaken to provide or pay for as health-care assistance. Alternatively, or in addition to the legal subrogation effected under this subsection, the Mayor may require a beneficiary to execute a written assignment of that same right or claim. (June 14, 1984, D.C. Law 5-86, § 3, 31 DCR 2098.)

**Section references.** — This section is referred to in § 3-504.

**Legislative history of Law 5-86.** — See note to § 3-501.

**Satisfaction of lien.** — Under this chapter,

the District's lien must be satisfied before the beneficiary of free medical services may receive any proceeds from a judgment. *Holly v. Godette*, 121 WLR 1409 (Super. Ct. 1993).

### § 3-503. Set-off.

(a) Except as provided in subsection (b) of this section, whenever the District is a defendant in a proceeding brought by a beneficiary, it shall have a right to set off from a judgment against it any damages that represent compensation for the care and treatment it has undertaken to provide or pay for as health-care assistance.

(b) No set-off shall be allowed from a judgment entered against the District pursuant to any provision of Chapter 19 of Title 6. (June 14, 1984, D.C. Law 5-86, § 4, 31 DCR 2098.)

**Cross references.** — As to initiation of actions to compel rights afforded mentally retarded persons, see § 6-1973. As to deprivation of civil rights for mental retardation, see § 6-1974. As to liability of estate of public pa-

tient of Forest Haven for maintenance, see § 21-1110.

**Legislative history of Law 5-86.** — See note to § 3-501.

### § 3-504. Enforcement of right; waiver.

(a) In enforcing its right to reimbursement, the District may:

(1) Permit the beneficiary to proceed on behalf of the District in prosecuting, in conjunction with his or her own claims, the District's claim for the unreimbursed value or cost of the health-care assistance provided;

(2) Intervene or join in any proceeding brought by the beneficiary;

(3) Institute and prosecute a proceeding either alone (in its own or the beneficiary's name) or in conjunction with the beneficiary; or

(4) Compromise or settle and execute a release of its claim against a third party.

(b) The Mayor may waive, in whole or in part, enforcement of the District's claim against a third party if enforcement in a particular case would not be cost effective or would result in undue hardship to the beneficiary, including any dependents or survivors of the actual recipient of health-care assistance. If waiver is based on the avoidance of undue hardship, the Mayor may in addition void the legal subrogation or assignment effected pursuant to § 3-502(b). In determining whether, and to what extent, reimbursement should be sought or awarded under this chapter, the Mayor or a court, respec-



tively, shall give due consideration to the extent of the beneficiary's injuries and his or her current and future needs, including the current and future needs of any dependents or survivors of the actual recipient of health-care assistance.

(c) No proceeding prosecuted or judgment received by the District pursuant to this chapter shall be a bar to a beneficiary's claim or cause of action for elements of damage not covered by the District's cause of action, or shall operate to deny the beneficiary recovery of those elements of damage. (June 14, 1984, D.C. Law 5-86, § 5, 31 DCR 2098.)

**Legislative history of Law 5-86.** — See note to § 3-501.

### § 3-505. Settlement probative of liability.

Any settlement or compromise of a claim or cause of action between a beneficiary and third party for more than what in the opinion of the court is a nominal amount in light of the claims asserted shall be admissible in evidence as probative of that third party's liability to the District. (June 14, 1984, D.C. Law 5-86, § 6, 31 DCR 2098.)

**Legislative history of Law 5-86.** — See note to § 3-501.

### § 3-506. Notice.

(a) Any individual or institutional health-care provider that bills the District for health-care assistance furnished to a beneficiary shall provide the Mayor with written notice of any known or suspected third-party liability as soon as the health-care provider acquires knowledge of or suspects the existence of that liability. The written notice shall include the beneficiary's name and, if known, the name of the third party and a description of the circumstances allegedly creating a liability.

(b) If either the beneficiary or the Mayor separately institutes a proceeding against or settlement negotiations with a third party, the party instituting the proceeding or negotiations shall have 20 calendar days to give the other party written notice of the action by personal service or certified mail. If a court proceeding has been instituted, proof of timely notice shall be filed with the court. Whenever the Mayor separately institutes a proceeding under this chapter, written notice to the beneficiary shall advise him or her of the Mayor's right to reimbursement and, if the beneficiary has not proceeded to trial in another proceeding or executed a settlement agreement, his or her rights to intervene or join in the proceeding and to retain private counsel.

(c) After deducting a beneficiary's litigation costs and reasonable attorney's fees, a third party who is aware that the District might have a claim against the remainder of a judgment or settlement awarded or executed in favor of the beneficiary shall not satisfy the remainder of that judgment or settlement without first giving the Mayor both written notice of the judgment or settle-

ment and 30 calendar days from the date notice is received to determine the appropriateness of a lien under § 3-507, and, if appropriate, to perfect and satisfy that lien.

(d) If a beneficiary retains private counsel, counsel shall be responsible for giving all notices required by this section. (June 14, 1984, D.C. Law 5-86, § 7, 31 DCR 2098.)

**Cross references.** — As to eligibility for Medicaid benefits, see § 3-204.5.

**Section references.** — This section is referred to in § 3-508.

**Legislative history of Law 5-86.** — See note to § 3-501.

Cited in *Jackson v. Condor Mgt. Group, Inc.*, App. D.C., 587 A.2d 222 (1991).

## § 3-507. Lien.

(a) Except as limited by subsections (b) and (c) of this section, the District shall have a lien, perfected in accordance with subsection (d) of this section, upon any judgment or settlement awarded or executed in favor of a beneficiary against a third party for that amount of the judgment or settlement that represents the care and treatment it has undertaken to provide or pay for as health-care assistance.

(b) If the beneficiary prosecutes a claim on behalf of the District in a proceeding or settlement negotiations and incurs a personal liability for litigation costs and attorney's fees, the Mayor shall determine in good faith what, if any, contribution to those costs and fees would be appropriate, and that contribution shall be subtracted from the amount of the lien.

(c) The beneficiary shall have the right to retain the amount of judgment or settlement that remains after the deduction of litigation costs, reasonable attorney's fees, or any amount necessary to reimburse the District for medical assistance payments the District has made on behalf of the beneficiary or the United States to the extent of the United States' financial participation in the medical assistance.

(d) To perfect a lien under this section, the Mayor, before payment of any part of a judgment or settlement is made to the beneficiary, shall:

(1) File in the Office of the Recorder of Deeds, in a docket provided for this type of lien, a written notice containing the beneficiary's name and address, the approximate date and location of the incident that caused or allegedly caused the beneficiary's injury or illness, and the name of the third party; and

(2) Provide by personal service or certified mail copies of the written notice of lien together with a statement of the date of filing to the beneficiary, the third party, and, if applicable and ascertained by the Mayor, the insurer of a third-party tortfeasor.

(e) If after receiving a notice of lien under paragraph (2) of subsection (d) of this section, a beneficiary, third party, or an insurer of a third-party tortfeasor disposes of funds covered by a lien perfected under this section without paying the District the amount of its lien that could have been satisfied from those funds after paying off any prior liens, that beneficiary, third party, or insurer shall, for a period of 1 year from the date the funds were improperly disposed

of, be liable to the District for any amount that, because of the disposition, it is unable to recover. (June 14, 1984, D.C. Law 5-86, § 8, 31 DCR 2098; Mar. 24, 1990, D.C. Law 8-99, § 2, 37 DCR 1067.)

**Section references.** — This section is referred to in §§ 3-506 and 3-508.

**Legislative history of Law 5-86.** — See note to § 3-501.

**Legislative history of Law 8-99.** — Law 8-99, the "Health-Care Assistance Reimbursement Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-305, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on January 2, 1990, and January 16, 1990, respectively. Signed by the Mayor on January 26, 1990, it was assigned Act No. 8-152 and transmitted to both Houses of Congress for its review.

**Legal costs of beneficiary take priority.**

— The language of this act, its legislative history, and the treatment of the issue by courts in other jurisdictions lends credence to the conclusion that a beneficiary's litigation costs and attorney's fees have priority over any Medicaid lien asserted by the District. *Holly v. Godette*, 121 WLR 1409 (Super. Ct. 1993).

Litigation costs and attorney's fees must be subtracted before either the District or the plaintiff/beneficiary may receive proceeds from the judgment, but the District's lien is given priority over the plaintiff/beneficiary's personal claim. *Holly v. Godette*, 121 WLR 1409 (Super. Ct. 1993).

## § 3-508. Rules.

The Mayor may, pursuant to subchapter I of Chapter 15 of Title 1, issue rules to effectuate the purposes of this chapter, including, but not limited to, rules for:

- (1) Determining the unreimbursed value of health or health-related care and treatment that the District undertakes to provide directly;
- (2) Determining the appropriateness and amount of a District contribution under § 3-507 (b);
- (3) Establishing procedures to implement the notice requirements in § 3-506; and
- (4) Facilitating the District's compliance with applicable federal regulations. (June 14, 1984, D.C. Law 5-86, § 9, 31 DCR 2098.)

**Legislative history of Law 5-86.** — See note to § 3-501.

## § 3-509. Existing rights to reimbursement preserved.

This chapter shall not be construed to limit or repeal any other provision of law that invests the District with a right to reimbursement for health-care assistance provided to a beneficiary or specified class of beneficiary. (June 14, 1984, D.C. Law 5-86, § 10, 31 DCR 2098.)

**Cross references.** — As to furnishing medical services and initial medical and other benefits to District government employees, see § 1-624.3. As to refunds of compensation after recovery from third persons, see § 1-624.32. As

to police and firefighters medical care recovery, see Chapter 5 of Title 4.

**Legislative history of Law 5-86.** — See note to § 3-501.



## CHAPTER 6. RIGHT TO OVERNIGHT SHELTER.

### *Subchapter I. General Provisions.*

Sec.

3-601. Statement of policy.

3-602. [Repealed].

3-602.1. Emergency Shelter and Support Services Program established.

3-603. Definitions.

3-604. Assessment of homelessness.

3-605. Provision of overnight shelter.

3-605.1. Participation in cost of emergency overnight shelter.

3-606. Appeals.

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Sec.

3-609. No creation of entitlement.

3-610. Length of stay in emergency overnight shelter.

3-611. Inspections.

3-612. Notification of establishment of emergency overnight shelter.

3-613. Toilet facilities.

3-614. Housing goals; priorities.

### *Subchapter II. Frigid Temperature Protection.*

3-621. Shelter in District buildings.

3-622. Prohibition; use of public school buildings.

### *Subchapter I. General Provisions.*

**Editor's notes.** — Because of the enactment of subchapter II of this chapter by D.C. Law 7-204 the preexisting text of this chapter, to

include §§ 3-601 through 3-614, has been designated as subchapter I of this chapter.

## § 3-601. Statement of policy.

Subject to the restriction contained in § 3-609, a homeless person who meets the requirements of §§ 3-605.1, 3-608, and 3-610 shall be eligible to apply for emergency overnight shelter and support services provided by the Emergency Shelter and Support Services Program established pursuant to § 3-602.1. (Mar. 14, 1985, D.C. Law 5-146, § 2, 31 DCR 6088; Mar. 6, 1991, D.C. Law 8-197, § 2(a), 37 DCR 4815.)

**Legislative history of Law 5-146.** — Law 5-146, the "District of Columbia Right to Overnight Shelter Act of 1984," was submitted to the electors of the District of Columbia on November 6, 1984, as Initiative No. 17. The results of the voting, certified by the Board of Elections and Ethics on November 20, 1984, were 114,698 for the Initiative and 43,966 against the Initiative. It was transmitted to Congress on January 8, 1985, published in the D.C. Register on December 7, 1984, and became law on March 14, 1985.

**Legislative history of Law 8-197.** — See note to § 3-602.1.

**Delegation of authority under Law 5-146.** — See Mayor's Order 85-53, May 9, 1985.

**Delegation of authority pursuant to Law 5-146 to the Director, Department of Human Services.** — See Mayor's Order 87-71, March 18, 1987.

**Declaration of an Emergency With Respect to the Urgent Need to Provide Permanent Housing for the Homeless in the District of Columbia.** — See Mayor's Order 89-204, September 8, 1989.

**Delegation of authority pursuant to D.C. Law 8-197, the "D.C. Emergency Overnight Shelter Amendment Act of 1990".** — See Mayor's Order 91-71, May 8, 1991.

**Emergency legislation.** — Emergency legislation, that amended both the Overnight Shelter Act and the Family Shelter Act, the former of which was adopted by an initiative, was an appropriate exercise of the power of the Council of the District. *Atchison v. District of Columbia*, App. D.C., 585 A.2d 150 (1991).

**Enactment of chapter not prohibited by § 1-281(a).** — The "laws appropriating funds" exception to the citizens' right to make laws through the initiative process in § 1-281(a) does not prohibit enactment of the District of Columbia Right to Overnight Shelter Initiative of 1984, this chapter. *District of Columbia Bd. of Elections & Ethics v. District of Columbia*, App. D.C., 509 A.2d 609 (1986).

The overnight shelter initiative, this chapter, does not strip elected officials of discretion to make adjustments in funding of various projects in violation of the "laws appropriating funds" exception to the initiative process in

§ 1-281(a). District of Columbia Bd. of Elections & Ethics v. District of Columbia, App. D.C., 509 A.2d 609 (1986).

Neither the fact that the overnight shelter initiative of 1984 may be denominated loosely an entitlement program nor the provisions for

judicial review make the initiative a law appropriating funds and therefore prohibited by the laws appropriating funds exception to § 1-281. District of Columbia Bd. of Elections & Ethics v. District of Columbia, App. D.C., 520 A.2d 671 (1986).

## § 3-602. Declaration of policy.

Repealed. Mar. 6, 1991, D.C. Law 8-197, § 2(b), 37 DCR 4815.

**Legislative history of Law 8-197.** — See note to § 3-602.1.

## § 3-602.1. Emergency Shelter and Support Services Program established.

(a) There is established in the District of Columbia ("District") an Emergency Shelter and Support Services Program ("Program") within the Department of Human Services.

(b) The Program shall be under the general direction of a Coordinator who shall be designated by the Mayor.

(c) The Coordinator shall be responsible for the administration of the Program and for ensuring the coordination of government services and programs for homeless persons in the District, including:

(1) The provision of social services assistance screening and evaluation for a homeless person in need of emergency overnight shelter and support services on a form prescribed by the Mayor prior to the receipt of services. The form shall include a request for the name, previous address, sex, place of birth, education and employment history, income, military service, medical history, mental health history, eligibility for public assistance benefits, reason for homelessness, and any other information that the Mayor deems appropriate to compile a complete profile on a homeless person or family applying for emergency overnight shelter and support services;

(2) The provision of case management assistance services for an individual or family who is provided with emergency overnight shelter and support services;

(3) The provision of employment or employment training referral services through coordination with the Department of Employment Services;

(4) The provision of assistance for the completion of an application for services, information, or referral services for housing or housing subsidy assistance through coordination with the Department of Public and Assisted Housing;

(5) The provision of substance abuse counseling or treatment referral services in coordination with the Commission on Public Health;

(6) The provision of mental health counseling or treatment referral services in coordination with the Commission on Mental Health Services; and

(7) Within a reasonable period of time after a homeless person's entry into emergency shelter, the provision of assistance to complete an application



for any public assistance programs to which the homeless person is entitled, including General Public Assistance, Aid to Families with Dependent Children ("AFDC"), Supplemental Security Income, and Food Stamps.

(d) The Program shall implement the provisions of this chapter and the Emergency Shelter Services for Families Reform Amendment Act of 1987, effective March 11, 1988 (D.C. Code § 3-205.5 *passim*.), with respect to emergency overnight shelter and support services for families.

(e) In providing emergency overnight shelter services in accordance with this chapter, the Mayor shall claim federal financial participation to the maximum extent allowable by law for assistance and services to homeless persons and families with minor children.

(f) In accordance with the provisions of Chapter 11A of Title 1, the Mayor may enter into a contract with any not-for-profit organization or private business vendor for the provision of emergency overnight shelter and support services. The Mayor shall give priority to a not-for-profit organization, except that the Mayor shall require any not-for-profit organization to meet District and federal financial assistance eligibility requirements that enable the District to implement the provisions of this chapter.

(g) Any person who applies for and is determined eligible to receive emergency overnight shelter and support services under the Program may be referred for a physical examination, which shall include a urinalysis, under procedures established by the Program, if a reasonable suspicion exists by a licensed intake social worker with experience and training in identifying conditions associated with cases of prolonged drug use.

(h) Any person who tests positive for drug use in accordance with subsection (g) of this section may be referred for substance abuse counseling and treatment as provided for by the Program for as long as the person receives emergency overnight shelter and support services under the Program. Failure to comply with the drug counseling or treatment referral requirements as provided by the Program shall result in immediate termination from the Program. (Mar. 14, 1985, D.C. Law 5-146, § 3a, as added Mar. 6, 1991, D.C. Law 8-197, § 2(c), 37 DCR 4815.)

**Section references.** — This section is referred to in § 3-601.

**Legislative history of Law 8-197.** — Law 8-197, the "District of Columbia Emergency Overnight Shelter Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-156, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 12, 1990,

and June 26, 1990, respectively. Signed by the Mayor on July 12, 1990, it was assigned Act No. 8-228 and transmitted to both Houses of Congress for its review.

**References in text.** — The Emergency Shelter Services for Families Reform Amendment Act of 1987, referred to in (d), is D.C. Law 7-86.

## § 3-603. Definitions.

For the purposes of this chapter, the term:

(1) "Drug" means a controlled substance as defined in § 33-501 (4), or the Controlled Substances Act of 1970, approved October 27, 1970 (84 Stat. 1243; 21 U.S.C. 801 et seq.).



(2) "Drug-related eviction" means an eviction from public housing, federally subsidized housing, or private rental housing accommodations, pursuant to subchapter V-A of Chapter 25 of Title 45.

(3) "Emergency" means a situation of personal or family crisis that involves an immediate or imminent threat to the health or safety of a homeless person and that cannot be resolved reasonably without government intervention.

(4) "Emergency overnight shelter" means an overnight or temporary housing accommodation that is provided by the District directly or by a vendor pursuant to a contractual arrangement with the District government to a homeless person or family in response to an emergency. The term "emergency overnight shelter" shall not mean a "housing accommodation" as defined in § 45-2503(14).

(5) "Homeless person" means an individual or a family who:

(A) Has no present possessory interest in a housing accommodation, does not have the financial ability to acquire immediately a possessory interest in a housing accommodation, and has no other alternative living arrangements;

(B) Has a possessory interest in a housing accommodation, but is barred from entry to the housing accommodation; or

(C) Has a possessory interest in a housing accommodation, but the occupation of the housing accommodation is likely to lead to violence. (Mar. 14, 1985, D.C. Law 5-146, § 4, 31 DCR 6088; Mar. 6, 1991, D.C. Law 8-197, § 2(d), 37 DCR 4815.)

**Legislative history of Law 5-146.** — See note to § 3-601.

Cited in *Johnson v. Dixon*, 786 F. Supp. 1 (D.D.C. 1991).

**Legislative history of Law 8-197.** — See note to § 3-602.1.

## § 3-604. Assessment of homelessness.

The Mayor shall prepare and submit to the Council an annual report before or with the submission of the annual District budget for the next fiscal year. The annual report shall contain an assessment of the status of homeless persons in the District and the District government's efforts to reduce the incidence of homelessness as reflected by data collected, maintained, and analyzed by the Program. (Mar. 14, 1985, D.C. Law 5-146, § 5, 31 DCR 6088; Mar. 6, 1991, D.C. Law 8-197, § 2(e), 37 DCR 4815.)

**Legislative history of Law 5-146.** — See note to § 3-601.

**Delegation of Authority — Director, Department of Human Services.** — See Mayor's Order 88-65, March 21, 1988.

**Legislative history of Law 8-197.** — See note to § 3-602.1.

**§ 3-605. Provision of overnight shelter.**

(a) The Mayor shall provide emergency overnight shelter to an eligible homeless person subject to the restrictions contained in §§ 3-609, 3-610, 3-611, and subsection (b) of this section.

(b) Emergency overnight shelter may be terminated or denied to any person:

(1) Who is unwilling to comply with this chapter or rules issued pursuant to this chapter;

(2) Who is required to pay income taxes, but has not filed an income tax return or had taxes withheld in the District when due;

(3) Who has a child of mandatory school age and has not or will not enroll the child in an accredited school;

(4) Eighteen years of age or older who is physically and mentally able to accept employment or employment or vocational training, and continuously refuses to accept employment or employment or vocational training without good cause;

(5) Who refuses to accept permanent housing accommodation after the person has been offered 2 permanent housing placement opportunities;

(6) Who refuses to accept social services assistance or who is unwilling to cooperate with social services personnel;

(7) Who within the preceding 365 days has been the subject of a drug-related eviction or been expelled from an emergency overnight shelter for prior or current use of drugs; or

(8) Eighteen years of age or older who has:

(A) Previously received emergency overnight shelter and support services;

(B) Been assisted by the Mayor in obtaining permanent housing accommodations following the receipt of the emergency overnight shelter and support services; and

(C) Has been subsequently evicted from the permanent housing accommodations for nonpayment of rent. (Mar. 14, 1985, D.C. Law 5-146, § 6, 31 DCR 6088; Mar. 6, 1991, D.C. Law 8-197, § 2(f), 37 DCR 4815.)

**Legislative history of Law 5-146.** — See note to § 3-601.

**Delegation of Authority — Director, Department of Human Services.** — See

**Legislative history of Law 8-197.** — See note to § 3-602.1.

Mayor's Order 88-65, March 21, 1988.

**§ 3-605.1. Participation in cost of emergency overnight shelter.**

(a) Any person 18 years of age or older who is not receiving AFDC benefits shall pay a reasonable fee for emergency overnight shelter and support services if the person is able to pay. In determining a person's ability to pay, the Mayor shall consider any income or assets from whatever source, including government assistance benefits. The fee may [be] equal to no more than 30% of the ~~person's gross monthly income, excluding expenses for work and child care.~~ The fee shall not constitute rent.

(b) Any amount that a person pays pursuant to subsection (a) of this section shall be placed in an interest-bearing account in the name of the homeless person for use by the homeless person in securing permanent housing. Sums paid into the escrow account by the homeless person shall be returned to the person when the person leaves the Program.

(c) Any person 18 years of age or older shall provide a reasonable level of community service in exchange for the provision of emergency overnight shelter and support services if the person is unable to pay the reasonable fee in accordance with subsection (a) of this section.

(d) Upon receipt of emergency overnight shelter and support services from the District government, a person 18 years of age or older shall apply for government assistance benefits.

(e) A person 18 years of age or older who receives emergency overnight shelter and support services from the District government and who is unemployed or receiving government assistance benefits shall apply for and participate in an ongoing program of employment or employment or vocational training, or provide community assistance to the District.

(f) The Mayor may exempt any person from fulfilling the requirements of subsection (b) or (d) of this section if the person has a medically verifiable mental or physical disability. (Mar. 14, 1985, D.C. Law 5-146, § 6a, as added Mar. 6, 1991, D.C. Law 8-197, § 2(g), 37 DCR 4815.)

**Section references.** — This section is referred to in § 3-601.

**Legislative history of Law 8-197.** — See note to § 3-602.1.

**Editor's notes.** — "Be" was inserted in the third sentence of (a) to correct an error in D.C. Law 8-197.

## § 3-606. Appeals.

(a) A person who has been denied or terminated from emergency overnight shelter may request and receive a review of the denial or termination pursuant to an appeal procedure established by the Mayor by rule.

(b) At the time of the denial or termination, a person shall be provided a clear, concise written statement that informs the person of the reasons for the denial or termination. The written statement shall inform the person of his or her right to appeal the denial or termination and the procedure to follow in order to appeal.

(c) The person shall have 10 business days to file an appeal.

(d) The appeal procedures provided by this section and any subsequent judicial review sought pursuant to § 1-1510, shall be the exclusive remedy for violations of this chapter.

(e) Monetary damages shall not be awarded under this chapter. (Mar. 14, 1985, D.C. Law 5-146, § 7, 31 DCR 6088; Mar. 6, 1991, D.C. Law 8-197, § 2(h), 37 DCR 4815.)

**Legislative history of Law 8-197.** — See note to § 3-602.1.

**Legislative history of Law 5-146.** — See note to § 3-601.

**Enactment of chapter not prohibited by**

§ 1-281(a). — Although this section does provide for suit by an aggrieved party where the District of Columbia fails to provide appropriate overnight shelter, this does not render the overnight shelter initiative violative of the



"laws appropriating funds" exception to the initiative process. District of Columbia Bd. of Elections & Ethics v. District of Columbia, App. D.C., 509 A.2d 609 (1986).

**Cited** in District of Columbia Bd. of Elections & Ethics v. District of Columbia, App. D.C., 520 A.2d 671 (1986); Johnson v. Dixon, 786 F. Supp. 1 (D.D.C. 1991).

### § 3-607. Severability.

If any provision of this subchapter or its application to any person or circumstances, is held invalid, the remainder of this subchapter, or the application of the provision to other persons or circumstances, shall not be affected. (Mar. 14, 1985, D.C. Law 5-146, § 8, 31 DCR 6088.)

**Legislative history of Law 5-146.** — See note to § 3-601.

**Editor's note.** — Because of the codification of D.C. Law 7-204 as subchapter II of this chap-

ter, and the designation of the preexisting text of Chapter 6 as subchapter I, "subchapter" has been substituted for "chapter" in two places.

### § 3-608. Rules.

(a) The Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1, issue proposed rules to implement the provisions of this chapter. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 45-day review period, the proposed rules shall be deemed approved.

(b) The proposed rules shall set standards for the reasonable fee to be paid or community service to be performed in exchange for emergency overnight shelter and support services.

(c) The proposed rules shall determine what constitutes a mitigating circumstance or justifiable public purpose.

(d) Pursuant to subsection (a) of this section, the Mayor may issue emergency rules without prior Council approval to implement the provisions of this chapter pending Council consideration of final rules. The emergency rules shall be effective for not more than 120 days. (Mar. 14, 1985, D.C. Law 5-146, § 8a, as added Mar. 6, 1991, D.C. Law 8-197, § 2(i), 37 DCR 4815.)

**Section references.** — This section is referred to in § 3-601.

**Effect of amendments.** — D.C. Law 8-197 added this section.

**Legislative history of Law 8-197.** — See note to § 3-602.1.

### § 3-609. No creation of entitlement.

(a) Nothing in this chapter shall be construed to create an entitlement of any homeless person or family to emergency overnight shelter or support services.

(b) The provision of emergency overnight shelter services in accordance with this chapter shall not be construed to require the provision of transportation to or from an emergency overnight shelter or any other service not specif-

ically provided for in this chapter. (Mar. 14, 1985, D.C. Law 5-146, § 8b, as added Mar. 6, 1991, D.C. Law 8-197, § 2(i), 37 DCR 4815.)

**Section references.** — This section is referred to in §§ 3-601 and 3-605.

**Legislative history of Law 8-197.** — See note to § 3-602.1.

**No federal cause of action exists** for inhabitants of homeless shelters under the Due

Process Clause of the United States Constitution, where this section expressly declares that nothing in this chapter is to be construed to create an entitlement to shelter for anyone. *Johnson v. Dixon*, 786 F. Supp. 1 (D.D.C. 1991).

### § 3-610. Length of stay in emergency overnight shelter.

(a) The length of stay of a homeless person shall not exceed 30 days for a single person 18 years of age or older and 90 consecutive days for homeless persons with minor children, in any 12-month period.

(b) If mitigating circumstances or a justifiable public purpose exists as defined by rules issued pursuant to § 3-608(a), the Mayor may grant:

(1) Extensions of emergency overnight shelter and support services for no more than 30 calendar days; or

(2) An exception to the one-time provision of emergency overnight shelter and support services in a 12-month period. (Mar. 14, 1985, D.C. Law 5-146, § 8c, as added Mar. 6, 1991, D.C. Law 8-197, § 2(i), 37 DCR 4815.)

**Section references.** — This section is referred to in §§ 3-601 and 3-605.

**Legislative history of Law 8-197.** — See note to § 3-602.1.

### § 3-611. Inspections.

If a homeless person or family has been placed in a housing accommodation in which rent assistance is provided by the District government, the Mayor may enter the housing accommodation during reasonable hours of a business day and consistent with constitutional guidelines to inspect the facility and to provide continued support and case management services. The Mayor shall give reasonable notice to the adult head-of-household specifying the date and time of the inspection and the individuals authorized by the Mayor to perform the inspection. The adult head-of-household or a designated adult representative shall be present at the time of the inspection. (Mar. 14, 1985, D.C. Law 5-146, § 8d, as added Mar. 6, 1991, D.C. Law 8-197, § 2(i), 37 DCR 4815.)

**Section references.** — This section is referred to in § 3-605.

**Legislative history of Law 8-197.** — See note to § 3-602.1.

### § 3-612. Notification of establishment of emergency overnight shelter.

(a) The Mayor shall notify the Council in writing 60 days prior to the establishment of any new proposed emergency overnight shelter established pursuant to this chapter. If the Council does not, by resolution, disapprove the establishment of the proposed emergency overnight shelter within 30 days of the receipt of notification, excluding Saturdays, Sundays, legal holidays, and

days of Council recess, the establishment of the emergency overnight shelter shall be deemed approved.

(b) The Mayor shall submit for Council approval a proposed plan for each new homeless shelter, and for each addition of new beds to a current homeless shelter established after January 1, 1990. (Mar. 14, 1985, D.C. Law 5-146, § 8e, as added Mar. 6, 1991, D.C. Law 8-197, § 2(i), 37 DCR 4815.)

**Legislative history of Law 8-197.** — See note to § 3-602.1.

### § 3-613. Toilet facilities.

Any designated emergency overnight shelter subsidized by the District shall make available 24-hour toilet accommodations for residents of the facility. (Mar. 14, 1985, D.C. Law 5-146, § 8f, as added Mar. 6, 1991, D.C. Law 8-197, § 2(i), 37 DCR 4815.)

**Legislative history of Law 8-197.** — See note to § 3-602.1.

### § 3-614. Housing goals; priorities.

(a) Within 120 days of March 6, 1991, the Mayor shall transmit to the Council a comprehensive plan that delineates specific goals and timetables for the creation and provision of transitional and supportive housing for homeless persons.

(b) The comprehensive plan required by subsection (a) of this section shall place a special priority on the provision of transitional and supportive housing through the production of District-subsidized single-room occupancy units. (Mar. 14, 1985, D.C. Law 5-146, § 9, as added Mar. 6, 1991, D.C. Law 8-197, § 2(i), 37 DCR 4815.)

**Legislative history of Law 8-197.** — See note to § 3-602.1.

## *Subchapter II. Frigid Temperature Protection.*

### § 3-621. Shelter in District buildings.

(a) Except as provided in subsection (b), on the nights when the temperature falls below 26 degrees Fahrenheit, the Mayor shall make available appropriate space in District of Columbia ("District") buildings and facilities for any person in the District who does not have any other shelter. For the purposes of this section, "night" means the time between the hours of 6:00 p.m. on a given day and 6:00 a.m. on the following day.

(b) The Mayor shall not use District of Columbia Public School buildings currently being used for educational purposes without the prior approval of the Board of Education. (Mar. 16, 1989, D.C. Law 7-204, § 2, 36 DCR 454.)



**Legislative history of Law 7-204.** — Law 7-204, the "Frigid Temperature Protection Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-401, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on

January 6, 1989, it was assigned Act No. 7-275 and transmitted to both Houses of Congress for its review.

**Delegation of Authority Pursuant to D.C. Law 7-204, the "Frigid Temperature Protection Amendment Act of 1988".** — See Mayor's Order 89-123, June 2, 1989.

### § 3-622. Prohibition; use of public school buildings.

Nothing in this subchapter shall be construed to reduce the rights recognized by § 3-601 et seq. (Mar. 16, 1989, D.C. Law 7-204, § 7, 36 DCR 454.)

**Legislative history of Law 7-204.** — See note to § 3-621.

## CHAPTER 7. MEDICAID PROVIDER FRAUD PREVENTION.

Sec.

3-701. Definitions.

3-702. Penalties; prohibited acts.

3-703. Additional civil penalties; appeals; testimony inadmissible.

3-704. Prosecutions; investigations; subpoe-

Sec.

nas; witness fees; perjury; compulsion of obedience to subpoena; oaths; access to records.

3-705. Rules.

### § 3-701. Definitions.

For the purposes of this chapter, the term:

(1) "Benefit" means any benefit authorized under the District of Columbia Medicaid Program.

(2) "Claim," "request for payment," or "claim for payment" means an application or communication, whether written, oral, electronic impulse, or magnetic tape, which is submitted by a person to the Department of Human Services of the District of Columbia for payment and which is used to identify any item or service for which payment may be made under the District of Columbia Medicaid Program.

(3) "Conditions of participation" means those items set forth in the provider agreement with the District of Columbia which a provider has agreed to meet in providing items or services under the District of Columbia Medicaid Program.

(4) "Department" means the Department of Human Services of the District of Columbia or its agent.

(5) "Director" means the Director of the Department of Human Services.

(6) "Item or service" means:

(A) Any particular item, device, medical supply, or service claimed to have been provided to a recipient and listed in an itemized claim for program payment or a request for payment; and

(B) In the case of a claim based on costs, any entry or omission in a cost report, books of accounts, or other documents supporting the claim.

(7) "Medicaid legislation" means Title 19 of the Social Security Act (42 U.S.C. § 1396 et seq.).

(8) "Medicaid program" means the program authorized by Title 19 of the Social Security Act and by § 1-359, and administered by the Department of Human Services.

(9) "Payment" means any payment made by the District of Columbia to a provider for any item or service under the District of Columbia Medicaid Program.

(10) "Person" means an individual, firm, partnership, group, corporation, professional corporation or association, institution, agency, or other entity, public or private, that has been approved or seeks to be approved by the District of Columbia to provide medical assistance to recipients.

(11) "Provider agreement" means a contract executed by the District of Columbia and a provider pursuant to Title 19 of the Social Security Act and which contract sets forth the rights, duties, and obligations of the parties.

(12) "Provider" means an individual or entity furnishing services under a provider agreement.

(13) "Recipient" means any individual who has been designated as eligible to receive or who receives any item or service under the District of Columbia Medicaid Program.

(14) "Record" means any medical, professional, or business record relating to the care or treatment of a recipient which is maintained or required to be maintained by a provider.

(15) "Sign" means to affix a signature, directly or indirectly, by means of a handwriting, typewriter, signature stamp, computer impulse, or any other means. (Mar. 16, 1985, D.C. Law 5-193, § 2, 32 DCR 1010.)

**Cross references.** — As to eligibility for Medicaid benefits, see § 3-204.5.

**Legislative history of Law 5-193.** — Law 5-193, the "Medicaid Provider Fraud Prevention Amendments Act of 1984," was introduced in Council and assigned Bill No. 5-511, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on December 4, 1984, and December 18, 1984, respectively. Signed by the Mayor on

January 11, 1985, it was assigned Act No. 5-258 and transmitted to both Houses of Congress for its review.

**Editor's note.** — As enacted by D.C. Law 5-193, § 2, this section contained the subsection designation "(a)." As this material contained no other subsection designations, the designation "(a)" has been deleted for stylistic consistency.

## § 3-702. Penalties; prohibited acts.

(a) A person shall be guilty of a misdemeanor punishable by a fine of not more than \$500 or imprisonment not to exceed 1 year, or both, for each violation of the following prohibitions in this section.

(b) No one may, with intent to defraud, by means of a false claim, false statement, failure to disclose information, or other fraudulent scheme or device, obtain or attempt to obtain:

(1) Authorization to become or remain a provider;

(2) A higher rate of payment than that to which the person is entitled as a provider;

(3) Payment, as a provider, for items or services that the person knows or has reason to know were not provided as claimed;

(4) Payment which may not be made under the program under which the claim was made; or

(5) Payment submitted in violation of an agreement between the person and the District of Columbia.

(c) No one may solicit, accept, or agree to accept any type of remuneration for the following:

(1) Referring a recipient to a particular provider of any item or service or for which payment may be made under the District of Columbia Medicaid Program; or

(2) Recommending the purchase, lease, or order of any good, facility, service, or item for which payment may be made under the District of Columbia Medicaid Program.

(d) No one may confer, offer, or agree to confer or offer any type of remuneration for the conduct described in subsection (c) of this section.



(e) No one may charge, solicit, accept, or attempt to charge, solicit, accept or receive anything of value from a recipient or provider in addition to the amount of money payable under the District of Columbia Medicaid Program.

(f) No one may solicit, receive, or attempt to solicit or receive anything of value as a precondition for admitting a recipient to a hospital, skilled nursing facility, intermediate care facility, or any other facility, or as a condition for providing any item or service to a recipient. (Mar. 16, 1985, D.C. Law 5-193, § 3, 32 DCR 1010.)

**Cross references.** — As to false statements, see § 22-2514. As to theft, see § 22-3811. As to fraud, see § 22-3821.

**Section references.** — This section is referred to in § 3-704.

**Legislative history of Law 5-193.** — See note to § 3-701.

### § 3-703. Additional civil penalties; appeals; testimony inadmissible.

(a) Any person that presents or causes to be presented to an officer, employee, or agent of the District of Columbia a claim under the Medicaid program that is for a medical or other item or service that the person knows or has reason to know was not provided as claimed, or that requests a payment which may not be made under the program under which the claim was made, or is submitted in violation of an agreement between the person and the District of Columbia, shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than \$2,000 for each item or service. In addition, the person shall be subject to an assessment of not more than twice the amount claimed for each item or service in place of the damages sustained by the District of Columbia because of the claim.

(b)(1) The Director may initiate a proceeding to determine whether to impose a civil money penalty or assessment under subsection (a) of this section, but only as authorized by the Corporation Counsel pursuant to procedures agreed upon by them.

(2) The Director shall not make a determination adverse to any person under subsection (a) of this section until the person has been given written notice and an opportunity for the determination to be made on the record after a hearing at which the person is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the person.

(c) In determining the amount or scope of any penalty or assessment imposed pursuant to subsection (a) of this section, the Director shall take into account the following:

(1) The nature of claims and the circumstances under which they were presented;

(2) The degree of culpability, history of prior offenses, and financial condition of the person presenting the claims; and

(3) Other matters as justice may require.

(d) Any person adversely affected by a determination under this section may obtain a review of the determination in the Court of Appeals of the District of Columbia in accordance with § 1-1510.

(e) Civil money penalties and assessments imposed under this section may be recovered in a civil action in the name of the District of Columbia by the Corporation Counsel. Amounts recovered under this section shall be paid to the District of Columbia Treasurer and allocated, first, to reimburse the Medicaid program and, then, to the General Fund of the District of Columbia. The amount of the penalty or assessment, when finally determined, may be deducted from any sum then or later owing by the District of Columbia to the person against whom the penalty or assessment has been charged.

(f) A determination by the Director to impose a penalty or assessment under subsection (a) of this section shall be final unless timely appealed pursuant to subsection (d) of this section. Matters that were raised or that could have been raised in a hearing before the Director or in an appeal pursuant to subsection (d) of this section may not be raised as a defense to a civil action brought by the District of Columbia.

(g) Whenever the Director's determination to impose a penalty or assessment under subsection (a) of this section becomes final, the Director shall notify the appropriate licensing agency or organization that the penalty or assessment has become final and also about the reasons for the penalty or assessment.

(h) Testimony in any civil proceeding pursuant to this chapter and the fruits of that testimony shall be inadmissible as evidence in a criminal trial except in a prosecution for perjury or false statement. (Mar. 16, 1985, D.C. Law 5-193, § 4, 32 DCR 1010.)

**Cross references.** — As to perjury, see § 22-2511. As to false statements, see § 22-2514.

**Section references.** — This section is referred to in § 3-704.

**Legislative history of Law 5-193.** — See note to § 3-701.

**Delegation of authority pursuant to Law 5-193.** — See Mayor's Order 86-49, March 31, 1986.

## § 3-704. Prosecutions; investigations; subpoenas; witness fees; perjury; compulsion of obedience to subpoena; oaths; access to records.

(a) Criminal prosecutions under § 3-702 and civil actions brought under § 3-703 (e) shall be brought in the Superior Court of the District of Columbia by the Corporation Counsel.

(b) In addition to any power to bring criminal or civil actions or otherwise carry out the duties under this chapter, the Corporation Counsel shall have the authority to investigate all alleged violations of this chapter and, in exercising this power, may issue subpoenas for witnesses to appear and testify or to produce all books, records, papers, or documents in any investigation into alleged violations of this chapter.

(c) Witnesses, other than those employed by the District of Columbia, summoned under subsection (b) of this section shall be paid the same fees and mileage that witnesses are paid in the Superior Court of the District of Columbia, but the fees need not be tendered to the witnesses before they appear and testify or produce books, records, papers, or documents.

(d) Any willful false swearing on the part of any witness testifying about a material fact pursuant to a subpoena issued under subsection (b) of this section shall be subject to prosecution pursuant to § 22-2511.

(e) If any witness having been personally summoned shall neglect or refuse to obey the subpoena, the Corporation Counsel may report that fact to the Superior Court of the District of Columbia. The Superior Court of the District of Columbia may compel obedience to the subpoena to the same extent as witnesses may be compelled to obey the subpoenas of that court.

(f) The Corporation Counsel may administer oaths to witnesses summoned in any investigation under subsection (b) of this section.

(g) No person holding records required to be maintained by the Medicaid legislation or regulations promulgated pursuant to that legislation may refuse to provide the Corporation Counsel with access to the records on the basis that release would violate any recipient's right of privacy, any recipient's privilege against disclosure or use, or any professional or other privilege or right. (Mar. 16, 1985, D.C. Law 5-193, § 5, 32 DCR 1010.)

**Cross references.** — As to conduct of criminal prosecution, see § 23-101.

**Legislative history of Law 5-193.** — See note to § 3-701.

## § 3-705. Rules.

The Mayor shall issue rules to implement the provisions of this chapter pursuant to subchapter I of Chapter 15 of Title 1. (Mar. 16, 1985, D.C. Law 5-193, § 6, 32 DCR 1010.)

**Legislative history of Law 5-193.** — See note to § 3-701.



## CHAPTER 8. YOUTH RESIDENTIAL FACILITIES LICENSURES.

Sec.

3-801. Definitions.

3-802. License requirements.

3-803. Rules.

3-804. Governing boards and advisory committees.

Sec.

3-805. Inspections.

3-806. Monitoring of residents placed outside District or in therapeutic care.

3-807. Provisional and restricted licensure.

3-808. Enforcement and penalties.

### § 3-801. Definitions.

For the purposes of this chapter, the term:

(1) "Child" means any individual who is:

(A) Under 18 years of age;

(B) 18 to 20 years of age and subject to a consent decree or dispositional order entered pursuant to Chapter 23 of Title 16; or

(C) 18 to 21 years of age and has an individualized education program pursuant to 20 U.S.C. § 1401 et seq.

(2) "Continuing care" means ongoing supervision and care designed to nurture a resident's growth and development, meet basic health needs, and monitor applicable school or work attendance.

(3) "Court" means the Superior Court of the District of Columbia.

(4) "District" means the District of Columbia.

(5) "Emergency care" means temporary supervision and care, usually not exceeding 90 days and provided as the result of an individual or family crisis, that includes monitoring of applicable school or work attendance and an assessment of a resident's physical, psychosocial, and educational needs.

(6) "Facility" means a youth residential facility.

(7) "Resident" means a District child residing in a youth residential facility.

(8) "Therapeutic care" means an intensive, professionally supervised program of education and treatment designed to meet a resident's physical, psychosocial, and educational needs as identified in an individualized treatment plan and, if applicable, an individualized education program.

(9)(A) "Youth residential facility" means a residential placement providing adult supervision and care for 1 or more children who are not related by blood, marriage, guardianship, or adoption (including both final and nonfinal adoptive placements) to any of the facility's adult caregivers and who were found to be in need of a specialized living arrangement as the result of:

(i) A detention or shelter care hearing held pursuant to § 16-2312;

(ii) A dispositional hearing held pursuant to § 16-2317;

(iii) Family crisis, homelessness, runaway status, or other circumstances creating a need for out-of-home supervision and care; or

(iv) A mental or physical handicap that requires, in accordance with 20 U.S.C. § 1401 et seq., more services than can be provided by nonresidential programs.

(B) The term "youth residential facility" shall include, but not necessarily be limited to, foster homes, youth shelters, runaway shelters, emer-

agency care facilities, youth group homes, supervised apartments, and residential treatment centers; it shall not include informal substitute care provided by friends or neighbors or those facilities licensed under the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983. (Aug. 13, 1986, D.C. Law 6-139, § 2, 33 DCR 3804.)

**Legislative history of Law 6-139.** — Law 6-139, the "Youth Residential Facilities Licensure Act of 1986," was introduced in Council and assigned Bill No. 6-224, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on May 27, 1986, and June 10, 1986, respectively. Signed by the Mayor on June 13, 1986, it was assigned Act No. 6-177 and transmitted to both Houses of Congress for its review.

**References in text.** — The "Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983," referred to in paragraph (9)(B), is D.C. Law 5-48.

**Delegation of authority pursuant to Law 6-139.** — See Mayor's Order 86-202, November 12, 1986.

**Cited in** *LaShawn A. v. Dixon*, 762 F. Supp. 959 (D.D.C. 1991).

## § 3-802. License requirements.

(a) Except as provided in subsections (b) and (c) of this section, it shall be unlawful to operate a facility in the District, whether public or private, for profit or not for profit, without being licensed by the Mayor. Each facility shall be licensed by both its type and the level(s) of care provided.

(b) Facilities that, before August 13, 1986, were not or would not have been subject to District licensure may operate without a license until 6 months after the issuance of applicable rules under § 3-803.

(c) The continued operation of a facility pending action by the Mayor on an application for licensure renewal or initial licensure under subsection (b) of this section shall not be deemed unlawful if a completed application was timely filed but, through no fault of the facility's administrator or adult caregiver(s), the Mayor has failed to act on the application before the expiration of the facility's current license or, under subsection (b) of this section, its authorized period of operation. A facility operating under this subsection shall comply with all other provisions of this chapter and rules issued pursuant to this chapter.

(d) Application forms shall include copies of all certificates of approval, authority, occupancy, or need that are required as a precondition to lawful operation in the District.

(e) A license shall be valid only for the person(s), address, type of facility, and level(s) of care stated on the license.

(f) A licensee shall, whenever possible, give the Mayor at least 60 days advance written notice before transferring ownership of a facility, including, in the case of a corporate licensee, any transfer of the legal or beneficial ownership of 10% or more of the stock of the corporation. Upon notification, the Mayor may conduct an investigation or require reinspection to ensure that the facility will remain in compliance with this chapter, the rules issued pursuant to this chapter, and all other applicable laws.

(g) Unless sooner terminated or renewed, a license required by this chapter shall expire 1 year from the date it was issued or last renewed.



(h) A facility shall promptly honor all requests by District government officials, residents, and members of the public to inspect its license. (Aug. 13, 1986, D.C. Law 6-139, § 3, 33 DCR 3804.)

**Legislative history of Law 6-139.** — See note to § 3-801.

Cited in *LaShawn A. v. Dixon*, 762 F. Supp. 959 (D.D.C. 1991).

### § 3-803. Rules.

(a) The Mayor shall, no later than 12 months after August 13, 1986, and pursuant to subchapter I of Chapter 15 of Title 1, issue all rules necessary to carry out the purposes of this chapter. These rules may categorize and define the various types of facilities, may establish licensure fees, and shall at a minimum include:

(1) Procedures governing the issuance, renewal, conversion, suspension, and revocation of licenses, the orderly transfer and discharge of residents, the receipt and investigation of complaints or allegations of abuse, the issuance of variances, and appeals from licensure-related decisions;

(2) A statement of residents' rights and responsibilities for each type of facility;

(3) Standards for continuing care, emergency care, therapeutic care, and aftercare; and

(4) Standards for each type of facility, including (when applicable), but not necessarily limited to:

(A) Programmatic standards with respect to educational, rehabilitative, and mental health services, recreational activities, parental and family involvement, the use of discipline and restraint, and the prevention of abuse;

(B) Personnel and staffing standards with respect to the ratio of staff to residents, caregiver qualifications, and ongoing staff and volunteer training;

(C) Personal care standards with respect to resident nutrition, hygiene, and emergency and routine health care;

(D) Confidentiality and privacy standards with respect to a resident's person, property, living quarters, case records, and subjection to searches for contraband;

(E) Safety and sanitation standards with respect to all parts of the facility and grounds, fire protection and prevention, first aid, and the facility's electrical, heating, cooling, ventilation, and water systems;

(F) Environmental, structural, and architectural standards; and

(G) Administrative standards with respect to resident admissions and discharges, operating procedures, fiscal management, complaint investigation and review, quality assurance, recordkeeping, and reporting.

(b) The standards adopted under subsection (a)(4)(A) of this section shall reflect a strong presumption that parental and family contact is in a resident's best interest and that active parental and family involvement is essential to a resident's care.

(c) The Mayor shall ensure that, no later than 6 months after the issuance of rules under subsection (a) of this section, all facilities shall be licensed in accordance with those rules.



(d) No later than 30 days after August 13, 1986, the Mayor shall appoint an advisory task force composed of social service, mental health, and education professionals, child welfare advocates, facility providers, community representatives, and representatives from relevant District government agencies. Within a time frame established by the Mayor, this task force shall formulate and present to the Mayor detailed, proposed standards for the rules required by subsection (a)(2) through (4) of this section. The Mayor shall give substantial weight to the task force's recommendations and shall, on a regular basis before publication of proposed rules, maintain a formal, structured dialogue with task force representatives while reviewing and acting on those recommendations.

(e)(1) The Mayor may, upon a showing of extreme hardship and manifest public need and if not inconsistent with other provisions of this chapter or deleterious to resident health, safety, or welfare, grant variances to private facilities with respect to the standards established under subsection (a)(3) and (4) of this section. The Mayor shall maintain a public record listing all variances granted under this subsection and containing a complete written explanation of the basis for each variance.

(2) The Mayor shall not issue variances to facilities owned or operated by the District government. (Aug. 13, 1986, D.C. Law 6-139, § 4, 33 DCR 3804.)

**Section references.** — This section is referred to in §§ 3-802, 3-805, 3-807 and 3-808.

**Legislative history of Law 6-139.** — See note to § 3-801.

## § 3-804. Governing boards and advisory committees.

(a) Each facility except a foster home shall have a governing board or local advisory committee that includes 1 or more representatives of the neighborhood where the facility is located. If a licensee operates more than 1 facility in the District, a single governing board or advisory committee may serve all of the licensee's facilities so long as it includes at least 1 representative of each neighborhood in which the licensee operates a facility.

(b) The governing board or advisory committee shall:

(1) Meet with the facility administrator at the facility at least quarterly to review programs, policies, citizen complaints, and police contacts;

(2) Inform the Mayor in writing of any situation that a majority of the board or committee believes warrants correction and that the facility has failed to correct within a reasonable period of time after being notified by the board or committee; and

(3) Report annually to the Mayor on the number of admissions, the number, outcome, and length of stay of planned and unplanned discharges, staff turnover rate and efforts to reduce it, and program effectiveness in meeting the needs of residents. (Aug. 13, 1986, D.C. Law 6-139, § 5, 33 DCR 3804.)

**Legislative history of Law 6-139.** — See note to § 3-801.

### § 3-805. Inspections.

(a)(1) To ensure that each new facility will be in compliance with this chapter, the rules issued pursuant to this chapter, and all other applicable laws, the Mayor shall conduct an on-site inspection before a facility's initial licensure. Instead of issuing a full-year license to a new facility or licensee, the Mayor may issue a provisional license under § 3-807 (b) pending satisfactory completion of additional, follow-up inspections. After initial licensure, the Mayor shall conduct at least 1 on-site inspection before each licensure renewal.

(2) The Mayor shall at least once a year inspect all facilities caring for District children outside the District to ensure that each of these facilities is in substantial compliance with this chapter, the rules issued pursuant to this chapter, and all other applicable laws. One year after the issuance of rules under § 3-803, the Mayor shall report to the Council on the cost and efficacy of implementing this paragraph and on the extent to which facilities caring for District children outside the District are required by their respective jurisdictions to meet licensure standards comparable to those adopted under § 3-803. Within 45 days after receiving the Mayor's report, the Council shall determine whether this paragraph should be amended to authorize the Mayor to accept licensure by other jurisdictions in lieu of conducting annual inspections.

(b) The Mayor may at any reasonable hour enter a facility for the purpose of conducting an announced or unannounced inspection to check for compliance with this chapter, a rule issued pursuant to this chapter, or any other District or locally enforceable federal law. When conducting an inspection, especially of a foster home, the Mayor shall respect the homelike atmosphere of the facility and the reasonable privacy interests of its residents and adult caregivers.

(c) Any District government employee who, while visiting a facility for the purpose of casework or monitoring, observes a condition that he or she believes in violation of this chapter, a rule issued pursuant to this chapter, or any other District or federal law shall, no later than 7 days after making the observation and if not previously reported, report this suspected violation to the Department of Consumer and Regulatory Affairs ("DCRA").

(d) The Mayor shall make all licensure and inspection reports available to the public upon request and shall notify all child-placing agencies in the District whenever a facility's license is suspended, revoked, converted to a provisional or restricted license, or not renewed. (Aug. 13, 1986, D.C. Law 6-139, § 6, 33 DCR 3804.)

**Section references.** — This section is referred to in §§ 3-806, 3-807 and 3-808.

**Legislative history of Law 6-139.** — See note to § 3-801.

**Cited in** LaShawn A. v. Dixon, 762 F. Supp. 959 (D.D.C. 1991).

**§ 3-806. Monitoring of residents placed outside District or in therapeutic care.**

(a)(1) The Mayor and the Board of Education shall ensure that every resident receiving therapeutic care has an up-to-date, individualized treatment plan ("ITP") composed of coordinated therapeutic, educational, and residential components. Each ITP shall be jointly formulated and approved by the Department of Human Services ("DHS") and the District of Columbia Public Schools ("DCPS") no later than 30 days after a child is determined to be in need of therapeutic care. As required by 20 U.S.C. § 1401 et seq., a handicapped resident receiving therapeutic care and in need of special education shall also have a current individualized education program ("IEP").

(2) DHS and DCPS shall update each resident's ITP no less than once a year. Copies of each resident's current ITP and, if applicable, IEP shall be on file with both DHS and DCPS.

(b)(1) The Mayor and the Board of Education shall establish a youth residential monitoring committee ("monitoring committee") that includes at a minimum representatives from DHS and DCPS. Each facility providing therapeutic care to a District child, whether located inside or outside the District, shall submit to the monitoring committee quarterly reports on that child's progress in meeting his or her treatment and educational goals. With the exception of foster homes, each facility providing emergency or continuing care to a District child outside the District shall submit to the monitoring committee quarterly reports on that child's physical, emotional, and educational development.

(2) Quarterly reports submitted under paragraph (1) of this subsection shall be on forms jointly developed by DHS and DCPS and shall be made available at all judicial and administrative reviews of a child's placement.

(c) The monitoring committee shall meet at least 4 times a year with the caseworker of each District child placed outside the District or in therapeutic care to review that child's quarterly reports and, if the child is expected to be discharged in the near future, to determine whether an aftercare plan has been prepared pursuant to subsection (f) of this section. If the committee finds that a child's current placement is inadequate, that a child's ITP or IEP needs revision, or that a required aftercare plan is lacking, it shall within 15 days report its findings and recommendations to the Director of DHS and the Superintendent of Schools. DHS and DCPS shall adopt or reject these recommendations within 15 days after their receipt.

(d)(1) The monitoring committee shall at least once a year conduct an on-site assessment of each District child placed outside the District or in therapeutic care to determine:

(A) The adequacy of the child's placement or the extent of the facility's compliance with the child's ITP or IEP;

(B) Whether the child's ITP, IEP, or level of care needs revision;

(C) Whether the child can receive equivalent care closer to home or in a less restrictive placement; and



(D) Whether appropriate aftercare preparations have been made if the child is due to be discharged within 30 days.

(2) Within 15 days after conducting an on-site assessment, the monitoring committee shall file a written report of its findings and recommendations with the Director of DHS and the Superintendent of Schools. If while conducting an assessment the committee observes 1 or more conditions that it believes are in violation of this chapter, a rule issued pursuant to this chapter, or any other District or federal law, it shall report these suspected violations to DCRA pursuant to § 3-805 (c).

(3) If the monitoring committee determines that a facility is not adequately meeting a child's needs or is not in compliance with a child's ITP or IEP, or if DCRA determines that a facility located outside the District is not in substantial compliance with District licensure standards, that facility shall be promptly notified of the necessary corrective actions. If the committee or DCRA is not satisfied that appropriate actions are being taken, it shall recommend to the Director of DHS and the Superintendent of Schools that the child be transferred to an appropriate alternative placement.

(e) The caseworker of each District child placed outside the District or in therapeutic care shall visit that child at least once a year. In meeting this requirement, the caseworker may accompany the monitoring committee when it conducts its on-site assessment under subsection (d) of this section.

(f)(1) The Mayor and the Board of Education shall ensure that, before a District child placed outside the District or in therapeutic care is brought home, he or she has a comprehensive aftercare plan composed of in-home supportive services and, if necessary, transitional living arrangements. Each child's aftercare plan shall be jointly formulated and approved by DHS and DCPS no later than 30 days before the child leaves a facility.

(2) The monitoring committee shall meet personally with each child's aftercare worker at least twice in the 6 months following a child's release into aftercare to review the continued adequacy of, and the extent of compliance with, the child's aftercare plan. If the committee finds that a child's aftercare plan needs revision or is not being carried out, it shall within 15 days report its findings and recommendations to the Director of DHS and the Superintendent of Schools. DHS and DCPS shall adopt or reject these recommendations within 15 days after their receipt.

(g) The Mayor and the Board of Education shall report annually to the Council on:

(1) The total number of residents in therapeutic care, the total number of residents located outside the District, the facilities in which they are placed, the annual cost of these facilities, and the number of residents who have ITPs, IEPs, or aftercare plans;

(2) The number of new residents in therapeutic care, the number of new residents placed outside the District, and the number, outcome, and length of stay of planned and unplanned discharges;

(3) A summary of individual facility effectiveness in meeting the needs of residents in therapeutic care; and

(4) A list of those facilities located outside the District that have been found not to be in substantial compliance with District licensure standards.

(h) Once rules have been issued under subsection (i) of this section, no District child shall reside in a facility located outside the District for more than 60 days if that facility has never been visited by the monitoring committee, the child's caseworker, or representatives from DCRA.

(i) No later than 12 months after August 13, 1986, the Mayor and the Board of Education shall each issue rules, pursuant to subtitle I of Chapter 15 of Title 1, and consistent with 20 U.S.C. § 1401 et seq., to carry out the purposes of this section. (Aug. 13, 1986, D.C. Law 6-139, § 7, 33 DCR 3804.)

**Legislative history of Law 6-139.** — See note to § 3-801.

### § 3-807. Provisional and restricted licensure.

(a) As an alternative to denial, nonrenewal, suspension, or revocation of a license, whenever a facility has numerous deficiencies or a serious single deficiency with respect to the standards established under § 3-803(a)(2) through (4), the Mayor may:

(1) Issue a provisional license if the facility is taking appropriate corrective actions in accordance with a mutually agreed-upon timetable; or

(2) Issue a restricted license that prohibits the facility from accepting new residents or providing certain specified services that it would otherwise be authorized to provide, if appropriate corrective actions are not forthcoming.

(b) As provided in § 3-805(a), provisional licenses may be issued to new facilities or licensees in order to afford the Mayor sufficient time and evidence to evaluate whether a new facility or licensee is capable of complying with this chapter, the rules issued pursuant to this chapter, and other applicable laws.

(c) Provisional licenses may be granted for a period not to exceed 90 days and may be renewed no more than once. (Aug. 13, 1986, D.C. Law 6-139, § 8, 33 DCR 3804.)

**Section references.** — This section is referred to in § 3-805.

**Legislative history of Law 6-139.** — See note to § 3-801.

### § 3-808. Enforcement and penalties.

(a)(1) The Mayor may, before holding a hearing, suspend the license of a facility or convert its license to a provisional or restricted license if he or she determines that existing deficiencies constitute an immediate or serious and continuing danger to the health, safety, or welfare of its residents. The Mayor shall immediately give the facility written notice of the suspension or conversion, including a statement of the grounds for the action and notification that the facility has 7 days (excluding Saturdays, Sundays, and legal holidays) from the day notice is received to request an expedited, preliminary review hearing. If the facility fails to communicate, either orally or in writing, a timely request for a preliminary review hearing, the order of suspension or



conversion shall remain in effect until terminated by the Mayor or an unexpedited hearing is held pursuant to procedures adopted under § 3-803(a)(1).

(2) Within 3 days (excluding Saturdays, Sundays, and legal holidays) after receiving a timely request for a preliminary review hearing, the Mayor shall hold a hearing to review the reasonableness of the suspension or conversion order. At this hearing, the Mayor shall have the burden of establishing a prima facie case of immediate or serious and continuing endangerment. The suspension or conversion order shall be either affirmed or vacated at the hearing.

(3) In the event an order is affirmed, it shall, unless extended, remain in effect for no longer than 30 days, during which time a final hearing shall be scheduled to consider the appropriateness of revocation or continuing restrictions on licensure. Before expiration of a suspension or conversion order, an extension may be granted for a period not to exceed an additional 30 days upon agreement of all the parties or for good cause shown.

(b)(1) Civil fines, penalties, and related costs may be imposed against a public or private facility for the violation of any provision of this chapter or rule issued pursuant to this chapter. Whether or not criminally prosecutable, a violation shall be considered an "infraction" under the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985. Except as provided in paragraphs (2) and (3) of this subsection, the procedures for adjudication and enforcement and the applicable fines, penalties, and costs shall be those established by or pursuant to subchapters I through III of Chapter 27 of Title 6. Governmental immunity shall not be a defense to any civil fine, penalty, or cost imposed.

(2) Civil fines, penalties, and related costs imposed against a facility shall not come out of funds needed to provide quality care and services to residents. To monitor compliance with this paragraph, the Mayor shall conduct an audit at least annually of every facility against which civil fines, penalties, or costs have been imposed. Civil fines, penalties, and costs imposed against any facility owned or operated by the District government shall be paid into a special account to be used for the personal needs of residents.

(3) Notwithstanding the availability of other means of enforcement, the Mayor may directly deduct the amount of civil fines, penalties, and related costs imposed against a facility from amounts otherwise payable by the District to the licensee or administrator of that facility.

(c) Notwithstanding the availability of any other remedy, the Corporation Counsel, a resident, or any person acting on or in behalf of a resident may maintain an action in court to enjoin a facility from violating the terms of its license, any provision of this chapter, or any rule issued pursuant to this chapter.

(d)(1) Notwithstanding the availability of any other remedy, a resident, any person acting on or in behalf of a resident, or the licensee or administrator of a facility may bring an action in court for mandamus to order the Mayor, a District government agency, or the youth residential monitoring committee to



comply with this chapter, a rule issued pursuant to this chapter, or any other District law relevant to the operation of the facility or the care of its residents.

(2) Any person bringing an action under paragraph (1) of this subsection shall give the named defendant(s) at least 5 days advance notice (excluding Saturdays, Sundays, and legal holidays) before the action is filed in court.

(e) Any District government employee required to make a report under § 3-805(c) who willfully fails to do so shall be subject to disciplinary and other remedial action in accordance with District law.

(f) Any person who willfully discloses, receives, uses, or permits the use of confidential information about a resident in violation of the standards established pursuant to § 3-803(a)(4)(D) shall be guilty of a misdemeanor and, upon conviction, subject to a fine not exceeding \$5,000.

(g) Any person who willfully operates an unlicensed facility in violation of this chapter, and any licensee who willfully operates a facility in violation of the terms of its license or who willfully impedes a District government employee in the performance of his or her authorized duties under this chapter or a rule issued pursuant to this chapter, shall be guilty of a misdemeanor and, upon conviction, subject to a fine not exceeding \$1,000 per day of violation, imprisonment for not more than 90 days, or both.

(h) Criminal prosecutions brought under subsection (f) or (g) of this section shall be in the Superior Court of the District of Columbia by information signed by the Corporation Counsel. (Aug. 13, 1986, D.C. Law 6-139, § 9, 33 DCR 3804.)

**References in text.** — The "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," referred to in subsection (b)(1), is D.C. Law 6-42.

**Legislative history of Law 6-139.** — See note to § 3-801.

## CHAPTER 9. EMPLOYEES' CHILD CARE FACILITIES.

Sec. 3-901. Necessity of employees' child care facilities.	Sec. 3-904. Management of areas designated for facilities.
3-902. Child Care Bureau established; organization; duties of executive director.	3-905. Periodic reassessment of need for facility; closing facility and relocation of children.
3-903. Requisites for space set aside in government buildings.	

### § 3-901. Necessity of employees' child care facilities.

The Council of the District of Columbia ("Council") finds that:

(1) The District of Columbia has more than 25,000 pre-schoolers and 45,000 school-aged children in need of child care services.

(2) Fifty-eight percent of the mothers with children under the age of 3 in the District of Columbia are employed.

(3) Sixty-three percent of the mothers with children 3 to 5 years of age in the District of Columbia are employed.

(4) During the period 1970 and 1980 the percentage of mothers with young children in the labor force rose, resulting in a greater proportion of pre-school children requiring child care services.

(5) Eighty percent of women in the work force are of childbearing age, and 93% of them are expected to become pregnant at some point in their careers.

(6) There is a substantial need to provide adequate child care facilities for District of Columbia ("District") government employees that are low cost, safe, and convenient to the job site.

(7) District agencies will experience increased productivity and morale, as well as lower absenteeism and turnover rates, by its staff by strategically placing child care facilities in the buildings where the parents work.

(8) Recruitment efforts will attract quality personnel because the provision of child care services is an incentive for reliable and responsible family members. (Feb. 24, 1987, D.C. 6-169, § 2, 33 DCR 7028.)

**Legislative history of Law 6-169.** — Law 6-169, the "District of Columbia Employees Child Care Facilities Act of 1986," was introduced in Council and assigned Bill No. 6-429, which was referred to the Committee on Government Operations. The Bill was adopted on

first and second readings on September 23, 1986, and October 7, 1986, respectively. Signed by the Mayor on October 30, 1986, it was assigned Act No. 6-218 and transmitted to both Houses of Congress for its review.

### § 3-902. Child Care Bureau established; organization; duties of executive director.

(a) There is established within the District government a Child Care Bureau ("Bureau"). The Bureau shall provide the District government a single administrative unit, responsible to the Mayor, to implement the provisions of this chapter and other programs that may be delegated to it by the Mayor of the District of Columbia ("Mayor") to promote child care.

(b) The Bureau shall be headed by an executive director, who shall be appointed by the Mayor within 90 days after February 24, 1987. The executive director shall devote full time to the duties of the office. In addition, there shall be made available to the executive director out of the budget for the fiscal year ending September 30, 1987, resources for staff necessary to carry out the provisions of this chapter. For subsequent fiscal years, the Mayor shall propose a budget adequate for the operation of the Bureau.

(c) In order to carry out the purposes of this chapter, the executive director shall, among other duties:

- (1) Serve as an advocate for child care in the District of Columbia;
- (2) Develop recommendations for a central child care policy and a comprehensive plan for addressing child care needs in the District;
- (3) Provide an ongoing mechanism to increase the coordination and the sharing of information among the various agencies currently sharing responsibilities for child care, as well as the various commissions and advisory boards involved in the delivery of child care services;
- (4) Develop an analysis and forecast of child care needs in the District government;
- (5) Identify areas of need for service or improvement of service and bring them to the attention of the Mayor, with suggestions for meeting these needs, including conducting or funding research and demonstration projects to test the suggestions;
- (6) Provide information and technical assistance with respect to programs and services for child care to the Mayor, other District government agencies and departments, and the community including, when necessary, contracting for consultant assistance outside the District government;
- (7) Evaluate present laws, regulations, procedures, and existing public and private programs, their capacities and program models, and make recommendations to the Mayor for improvement;
- (8) Review and comment on proposed District and federal legislation, regulations, policies, and programs, and make policy recommendations on health, safety, and quality issues as they relate to child care;
- (9) File with the Mayor and with the Council an annual report on the operation of the Bureau to include information developed pursuant to paragraphs (5), (6), and (7) of this subsection, as well as an analysis of child care needs, and make it available to the public;
- (10) Publish a directory to be revised at least every 2 years, of child care services available to District residents through the District government, including, to the maximum extent possible, sources of nonpublic assistance and programs for child care in the District; and
- (11) Assure necessary control, evaluation, audit, and reporting on programs funded through the Bureau. (Feb. 24, 1987, D.C. Law 6-169, § 3, 33 DCR 7028.)

**Legislative history of Law 6-169.** — See 6-169. — See Mayor's Order 87-139, June 16, note to § 3-901. 1987.

**Delegation of authority pursuant to Law**



### § 3-903. Requisites for space set aside in government buildings.

(a) The District government shall set aside adequate space within government-occupied buildings to meet the child care needs of its employees whenever:

(1)(A) The government constructs, leases, or receives as a gift any office building that will be used to accommodate 100 or more District government employees; or

(B) The government makes additions, alterations, or repairs to existing District government-owned or -occupied office buildings that change the use of 25% of the net square foot area of the building and include the addition to, alteration of, or repair to the 1st floor in order to accommodate 100 or more District government employees; and

(2) A review of future employee occupancy shows sufficient need for child care services for 20 or more children.

(b) The Director of the Department of Administrative Services may secure space for child care outside any building described in subsection (a) of this section only in the event that all other physical requirements controlling the development of the child care facilities within the office building cannot be utilized, and only if funds for the offsite child care facilities are made available.

(c) Office space occupied by the District government on February 24, 1987, may be renovated to accommodate a child care facility subject to the availability of funds and the direction of the Director of the Department of Administrative Services.

(d) Space designated within a District office building for a child care facility shall comply with all other provisions of District law.

(e) The interior area of child care space shall not exceed 2,000 feet, or be less than that required to accommodate 20 children, excluding space for restrooms, kitchen facilities, storage areas, and teacher offices.

(f) This chapter shall not be construed to apply to those buildings that provide care or 24-hour residential care for patients, inmates, or wards of the District, such as hospitals and correctional facilities.

(g) The Department of Administrative Services shall conduct an inventory of the current space and space requirements of the District government office space that could be utilized for child care programs as provided for in subsection (a) of this section. The inventory shall be completed within 90 days of February 24, 1987. (Feb. 24, 1987, D.C. Law 6-169, § 4, 33 DCR 7028.)

**Section references.** — This section is referred to in § 3-904.

**Legislative history of Law 6-169.** — See note to § 3-901.

**§ 3-904. Management of areas designated for facilities.**

(a) Utilization of the space described in § 3-903 for child care shall be subject to terms and conditions set forth by the Director of the Department of Administrative Services. The terms shall include payment of rent, proof of financial responsibility, and maintenance of space. The District government shall not be liable for negligent acts or acts of omission on the part of the child care facility operator, or its employees.

(b) Space for child care facilities shall first be made available to employees who wish to establish nonprofit child care facilities at a rate to be established by the Director of the Department of Administrative Services, based upon the actual cost to the District, or the average cost of District-controlled office space, whichever is less.

(c) Space for child care facilities may be made available to private organizations that wish to establish child care facilities in District government buildings.

(d) Rates for the rental of space in District buildings to be made available for child care facilities shall be established by the Director of the Department of Administrative Services, who shall attempt to keep these costs as low as possible so that fees paid by employees for child care services will not be substantially impacted by high overhead costs.

(e) Contracts with private organizations to provide child care services shall be competitively bid and awarded, and may include factors in addition to price, such as the provision of early childhood education programs, infant care, and other developmental models.

(f) The department or departments occupying any building shall notify the employee-occupants of the availability of space to be used for child care facilities no earlier than 180 days prior to the projected date of occupancy of a new building or space provided as the result of additions, alterations, or repairs that both change the use of 25% of the net square foot area of the building and include the addition to, alteration of, or repair of the 1st floor.

(g)(1) The space may be used for other purposes, as long as no permanent alteration of space occurs, if within 30 days after full occupancy of a new office building, or 30 days after completion of additions, alterations, or repairs to an existing District government building, the employee-occupants:

(A) Have not requested a child care needs review by the Bureau;

(B) Have not filed an application to be chartered as a nonprofit corporation for the purpose of organizing a child care facility;

(C) Have not deposited 2 months' rent in a commercial bank or savings account; or

(D) Have not entered into a contract with the Department of Administrative Services.

(2) Other purposes may include, but are not limited to, conference rooms, storage rooms, or offices.

(h) The space may be reconverted for child care purposes within 180 days of the notice, if, at a later date, the employee-occupants:

- (1) File an application to be chartered as a non-profit corporation for the purpose of organizing a child care facility;
- (2) Deposit 2 months' rent in a commercial bank or savings account; and
- (3) Notify the Director of the Department of Administrative Services of those actions.

(i) Within 120 days of February 24, 1987, the Mayor shall promulgate proposed rules governing the operation of child care facilities in District government buildings. The proposed rules shall be submitted to the Council for approval, in whole or in part, by resolution. (Feb. 24, 1987, D.C. Law 6-169, § 5, 33 DCR 7028.)

**Legislative history of Law 6-169.** — See 6-169. — See Mayor's Order 87-139, June 16, note to § 3-901. 1987.

**Delegation of authority pursuant to Law**

### § 3-905. Periodic reassessment of need for facility; closing facility and relocation of children.

(a) When a child care facility has been continuously operating for 4 years, the executive director of the Bureau shall assess the child care needs of District employees using the facility and the office space needs of the building within which the facility is located. If the assessment demonstrates a greater need for office space than for child care, the Director of the Department of Administrative Services may close the child care facility after 90 days written notice of the closure is given to the director or head teacher of the facility.

(b) All children registered in a child care facility closed pursuant to subsection (a) of this section may be given relocation assistance into other child care facilities. (Feb. 24, 1987, D.C. Law 6-169, § 6, 33 DCR 7028; May 10, 1989, D.C. Law 7-231, § 14, 36 DCR 492.)

**Legislative history of Law 6-169.** — See note to § 3-901.

**Legislative history of Law 7-231.** — Law 7-231, the "Technical Amendments Act of 1988," was introduced in Council and assigned Bill No. 7-586, which was referred to the Com-

mittee of the Whole. The Bill was adopted on first and second readings on November 29, 1988, and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-285 and transmitted to both Houses of Congress for its review.



CHAPTER 10. EMERGENCY ASSISTANCE PROGRAM.

Sec.	Sec.
+ 3-1001. Definitions.	3-1015. Food emergency.
+ 3-1002. Requirements.	3-1016. Clothing emergency.
3-1003. Emergency assistance.	3-1017. Essential household items emergency.
+ 3-1004. Timeframes for emergency assistance; procedures for application.	3-1018. Essential large appliances emergency.
+ 3-1005. Applicant unit.	+ 3-1019. Essential furniture emergency.
+ 3-1006. Residency requirement.	3-1020. Rent emergency.
3-1007. Employment requirement.	3-1021. Mortgage emergency.
- 3-1008. Income eligibility standard.	3-1022. Essential home repairs emergency.
+ 3-1009. Income exempt from determination of eligibility.	3-1023. Storage and moving emergency.
- 3-1010. Income considered in determination of eligibility.	3-1024. Security or damage deposits.
3-1011. Assets and resources exempt from determination of eligibility.	3-1025. Deposit for heat or utility emergency.
+ 3-1012. Assets and resources considered in determination of eligibility.	3-1026. Utility emergency.
+ 3-1013. Computation of emergency assistance payments.	3-1027. Necessities of employment.
+ 3-1014. Emergency related eligibility.	+ 3-1028. Burial assistance.
	3-1029. Multiple emergency assistance requests.
	3-1030. Waiver by Mayor.
	3-1031. Rules.
	3-1032. Appeals.

§ 3-1001. Definitions.

For the purposes of this chapter, the term:

(1) "Applicant" means the individual who is applying for emergency assistance for his or her own needs or the needs of those with whom he or she lives and those persons specified in § 3-1005.

(2) "Authorized representative" means a person who is acting responsibly on behalf of an applicant, is at least 18 years of age, and has sufficient knowledge of the circumstances of the client to provide or obtain necessary information on the applicant, or a person who has legal authorization to act on behalf of the applicant.

(3) "Basic necessities" means nondiscretionary living expenses limited to the cost of shelter, utilities, food, medical care, and reasonable expenses for clothing, school-related items, household items, or expenses related to employment, transportation, or family-related emergencies.

(4) "Budget month" means the 30-day period prior to the day immediately preceding application.

(5) "Department" means the District of Columbia Department of Human Services, established by Reorganization Plan No. 2 of 1979, approved February 21, 1980 (D.C. Code, Vol. 1).

(6) "Emergency" means a situation in which immediate action is necessary to avoid destitution, establish or re-establish a home, or provide for the immediate needs of an eligible applicant to relieve or prevent serious harm or prevent displacement from a home.

(7) "Equity" means the current market value of property less any lien indebtedness on the property and reasonable expenses necessary to liquidate the property.

(8) "Household furnishings" means personal property customarily found in the home for use in connection with the maintenance, use, or occupancy of

the premises, including furniture, furnishings, household appliances, or cooking and eating utensils.

(9) "Income from a boarder" means any money paid to the applicant by a person living in the same household as the applicant, but who is not related to the applicant.

(10) "Personal belongings" means personal property intended for personal use, including clothing, jewelry, watches, personal grooming articles, books, or musical instruments.

(11) "SSI" means the supplemental security income benefits established pursuant to 42 U.S.C. § 1381.

(12) "Vendor" means a provider of a service or a product.

(13) "Verification" means documentation or collateral proof used to confirm the validity of an applicant's circumstances. (Mar. 16, 1989, D.C. Law 7-221, § 2, 36 DCR 553.)

**Legislative history of Law 7-221.** — Law 7-221, the "Emergency Assistance Program Act of 1988," was introduced in Council and assigned Bill No. 7-68, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on

November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-296 and transmitted to both Houses of Congress for its review.

## § 3-1002. Requirements.

(a) An application for emergency assistance under this chapter shall be in writing, on a form prescribed by the Mayor, and signed by the applicant or an authorized representative.

(b) To be eligible for emergency assistance, the applicant shall:

(1) Be presented with an emergency;

(2) Apply for emergency assistance after using all other available resources, except those exempted by §§ 3-1009 and 3-1011, including resources actually available from a community source, that would alleviate the emergency;

(3) Meet the requirements of §§ 3-1005 through 3-1028; and

(4) Demonstrate that the provision of 1 or more of the available categories of emergency assistance would alleviate the emergency.

(c) If the emergency will occur within the next 2 business days, the Mayor shall take all reasonable steps to process the application in time to resolve the emergency, if the applicant meets all of the appropriate eligibility criteria and the delay is not caused by the failure of the applicant to provide verification or documentation required to make an eligibility determination. (Mar. 16, 1989, D.C. Law 7-221, § 3, 36 DCR 553.)

**Section references.** — This section is referred to in § 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Delegation of Authority Pursuant to D.C.**

**Law 7-221, the "Emergency Assistance Services Act of 1988".** — See Mayor's Order 89-168, July 25, 1989, as amended by Mayor's Order 89-233, October 5, 1989.

**§ 3-1003. Emergency assistance.**

(a) Emergency assistance may be provided to a single individual aged 60 years or over, a childless couple if one of the couple is at least 60 years old, a family with children in accordance with § 3-1005, or an applicant with children who are in the applicant's legal custody, if all conditions for the receipt of emergency assistance imposed by this chapter are met, except as provided in §§ 3-1029 and 3-1030.

(b) The emergency must be that of the applicant.

(c) The applicant must assist fully in establishing eligibility, the nature of the emergency, and the extent of need.

(d) The Mayor shall not be obligated to provide an amount for a requested service if a less costly alternative is available.

(e) Emergency assistance may be in the form of cash, coupons, in-kind benefits, or direct vendor payment. (Mar. 16, 1989, D.C. Law 7-221, § 4, 36 DCR 553; Aug. 17, 1991, D.C. Law 9-19, title I, § 102(a), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-27, § 3(a), 38 DCR 4205.)

**Section references.** — This section is referred to in § 3-1029.

**Effect of amendments.** — D.C. Law 9-27 in (a), substituted "aged 60 years or over, a childless couple if one of the couple is at least 60 years old, a family with children in accordance with § 3-1005, or an applicant with children who are in the applicant's legal custody" for "childless couple, or a family with children", and substituted "§§ 3-1029 and 3-1030" for "§§ 3-1028 and 3-1029".

**Temporary amendments of section.** — Section 102(a) of D.C. Law 9-19 rewrote (a).

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 102(a) of the Omnibus Budget Support Emergency Act of 1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390).

For temporary amendment of section, see § 102(a) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Legislative history of Law 9-19.** — Law 9-19, the "Omnibus Budget Support Temporary Act of 1991," was introduced in Council and assigned Bill No. 9-205. The Bill was adopted on first and second readings on May 7, 1991, and June 4, 1991, respectively. Signed by the Mayor on June 21, 1991, it was assigned Act No. 9-43 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-27.** — Law 9-27, the "Public Assistance Act of 1982 Budget Conformity Amendment of 1991," was introduced in Council and assigned Bill No. 9-159, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 4, 1991, and June 18, 1991, respectively. Signed by the Mayor on July 2, 1991, it was assigned Act No. 9-54 and transmitted to both Houses of Congress for its review.

**Delegation of Authority Pursuant to D.C. Law 7-221, the "Emergency Assistance Services Act of 1988".** — See Mayor's Order 89-168, July 25, 1989, as amended by Mayor's Order 89-233, October 5, 1989.

**§ 3-1004. Timeframes for emergency assistance; procedures for application.**

(a) When an application for emergency assistance has been approved for cash or direct vendor payment, the Mayor shall provide emergency assistance within 8 business days from the date of a completed application. Nothing in this section shall prohibit the provision of emergency assistance within a shorter period whenever possible.



(b) An application for emergency assistance shall be considered complete when the application is completed and signed by the applicant and the applicant has provided the information needed to process the application.

(c) The Mayor shall provide the applicant with a written request specifying the information needed to complete the application and discuss with the applicant how to obtain the information.

(d) The Mayor shall not request that the applicant provide documentation that the Mayor can obtain more easily than the applicant, when that determination can be made. The Mayor may use documents, telephone conversations, personal and collateral interviews, reports, correspondence, and conferences to verify information.

(e) The Mayor shall have an additional business day to process a completed application for each day of delay caused by the applicant's failure to supply additional information or documentation, if the failure arose during the verification of information contained in the completed application and without which the Mayor cannot verify the facts necessary to establish eligibility. The Mayor shall have an additional business day to process the completed application for each day of delay due to an unexplained loss of contact with the applicant, evidence of misrepresentation in the completed application, refusal of a vendor to accept payments, or delay by a third party from whom the Mayor has requested information and over whom the Mayor has no control.

(f) The Mayor shall provide application forms and accept applications from every person who requests emergency assistance at the time that emergency assistance is sought. Each applicant shall be interviewed for emergency assistance on the date the emergency assistance is requested or, if that is not possible, on the next business day. If the applicant's emergency would occur within the next 2 business days, the Mayor shall interview the applicant on the day emergency assistance is sought.

(g) The Mayor shall provide to each applicant, at the time of application, a clear, concise, written notice containing the rights and responsibilities of the applicant and the responsibilities of the Mayor with respect to this chapter. (Mar. 16, 1989, D.C. Law 7-221, § 5, 36 DCR 553.)

**Section references.** — This section is referred to in § 3-1029.

**Temporary amendment of section.** — Section 2 of D.C. Law 10-20 amended subsection (a) to read as follows:

"(a) When an application for emergency assistance has been approved for cash or direct vendor payment, the Mayor shall provide emergency assistance within 12 business days from the date of a completed application. Nothing in this section shall prohibit the provision of emergency assistance within a shorter period whenever possible. For purposes of this subsection a direct vendor payment has been made if the Mayor has paid cash or mailed a check for needed services to the appropriate vendor, or issued a confirmation letter to the vendor approving payment for needed services."

Section 3(b) of D.C. Law 10-20 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 2 of the Emergency Assistance Program Emergency Amendment Act of 1993 (D.C. Act 10-36, June 8, 1993, 40 DCR 3832).

For temporary amendment of section, see § 2 of the Emergency Assistance Program Congressional Recess Emergency Amendment Act of 1993 (D.C. Act 10-86, August 4, 1993, 40 DCR 6065).

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Legislative history of Law 10-20.** — Law 10-20, the "Emergency Assistance Program Temporary Amendment Act of 1993," was introduced in Council and assigned Bill No.

10-222. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-52 and transmitted to both Houses of Congress for its review. D.C. Law 10-20 became effective on September 30, 1993.

**Delegation of Authority Pursuant to D.C. Law 7-221, the "Emergency Assistance Services Act of 1988".** — See Mayor's Order 89-168, July 25, 1989, as amended by Mayor's Order 89-233, October 5, 1989.

### § 3-1005. Applicant unit.

(a) The definition of "applicant" shall include the following individuals who live in the same household:

(1) Persons related by full or half blood, but not beyond first cousin, nephew, or niece, including those of persons of preceding generations as denoted by the prefixes grand, great, and great-great;

(2) Persons related by legal adoption;

(3) Persons related by marriage, including stepchildren and unmarried parents of a common child who live together; and

(4) Individuals not related as defined in paragraph (1), (2), or (3) of this subsection who have a joint legal responsibility for emergency assistance requested under § 3-1020, § 3-1021, § 3-1022, § 3-1023, § 3-1024, § 3-1025, or § 3-1026.

(b) The applicant may include an SSI recipient who meets the criteria of subsection (a) of this section, if the SSI recipient chooses to be part of the unit. The SSI recipient may apply separately for emergency assistance under this chapter.

(c) A person who meets the criteria of subsection (a) of this section is an eligible applicant, if he or she is temporarily away from the home due to employment, hospitalization, vacation, or a visit. A child who is away at school is an eligible applicant, if he or she demonstrates an intent to resume living at home by returning on occasional weekends or holidays, and during summer vacations.

(d) For purposes of eligibility under this chapter and inclusion in an applicant unit, a "child" is a person under the age of 21 years.

(e) A child may apply for assistance under this chapter only as a part of a family applicant unit, unless the child is an emancipated minor who is applying for benefits on behalf of himself or herself and his or her dependent child, or is a dependent child and is a part of an eligible applicant unit. (Mar. 16, 1989, D.C. Law 7-221, § 6, 36 DCR 553; Aug. 17, 1991, D.C. Law 9-19, title I, § 102(b), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-27, § 3(b), 38 DCR 4205.)

**Section references.** — This section is referred to in §§ 3-1001 to 3-1003 and 3-1029.

**Effect of amendments.** — D.C. Law 9-27 added (d) and (e).

**Temporary amendments of section.** — Section 102(b) of D.C. Law 9-19 added (d) and (e).

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For tem-

porary amendment of section, see § 102(b) of the Omnibus Budget Support Emergency Act of 1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390).

For temporary amendment of section, see § 102(b) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Legislative history of Law 9-19.** — See note to § 3-1003.

**Legislative history of Law 9-27.** — See note to § 3-1003.

### § 3-1006. Residency requirement.

An applicant must live in the District of Columbia ("District") at the time of application. Migrant workers living in the District who meet all criteria for applicants are eligible for emergency assistance. (Mar. 16, 1989, D.C. Law 7-221, § 7, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002 and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

### § 3-1007. Employment requirement.

The emergency cannot be the result of any adult applicant refusing, without good cause, to accept employment or training for employment. Good cause for refusing employment or training is demonstrated when the applicant shows, with reliable and credible information, that:

(1) Wages to be paid by the prospective employer are below the minimum wage requirement;

(2) The applicant is physically or mentally unable to perform the employment or gain access to the worksite;

(3) Working conditions at the employment or training site are in violation of applicable health, safety, or worker's compensation laws, rules, or regulations and the violations of health or safety laws, rules, or regulations present a substantial risk to health or safety;

(4) Discrimination by an employer against the adult applicant is based on age, race, sex, color, handicap, religious beliefs, national origin, or political beliefs;

(5) The requirements of the job would be contrary to his or her religious beliefs; or

(6) Child care, which is necessary for the adult applicant to accept the work or training, is not available. (Mar. 16, 1989, D.C. Law 7-221, § 8, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002 and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

### § 3-1008. Income eligibility standard.

Except as provided in §§ 3-1015, 3-1016, and 3-1028, to be eligible for emergency assistance services, the applicant may not have net income in the budget month, as specified in § 3-1010, or resources, as specified in § 3-1012, in excess of the following levels:

<u>Number of Persons</u>	<u>Maximum Monthly Income Level</u>
1 person	\$ 721.25
2 persons	\$ 966.25
3 persons	\$ 1,211.25



<u>Number of Persons</u>	<u>Maximum Monthly Income Level</u>
4 persons	\$1,456.25
5 persons	\$1,701.25
6 persons	\$1,946.25
7 persons	\$2,191.25
8 persons	\$2,436.25
9 persons	\$2,646.25

For each additional person beyond 9, add \$245.

(Mar. 16, 1989, D.C. Law 7-221, § 9, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002 and 3-1029.

**Temporary amendments of section.** — Section 2(a) of D.C. Law 9-10 amended the exception at the beginning to read as follows: "Except as provided in §§ 3-1015, 3-1016, 3-1020(d), 3-1021(c), and 3-1028".

Section 3(b) provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the Persian Gulf Housing Assistance Amendment Act of 1991, whichever occurs first.

**Emergency act amendments.** — For temporary amendment of section, see § 2(a) of the Persian Gulf Housing Assistance Emergency

Amendment Act of 1991 (D.C. Act 9-23, April 26, 1991, 38 DCR 2726).

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Legislative history of Law 9-10.** — Law 9-10, the "Persian Gulf Housing Assistance Temporary Amendment Act of 1991," was introduced in Council and assigned Bill No. 9-174. The Bill was adopted on first and second readings on April 9, 1991, and May 7, 1991, respectively. Signed by the Mayor on May 17, 1991, it was assigned Act No. 9-28 and transmitted to both Houses of Congress for its review.

## § 3-1009. Income exempt from determination of eligibility.

The following income of an applicant will not be counted in calculating income available to the applicant in the budget month:

- (1) Discontinued income, unless available in the budget month;
- (2) Income in kind, including, but not limited to, the value of food donated by the United States Department of Agriculture ("USDA") or a local agency or the value of food stamp coupon allotments;
- (3) Payments made to an applicant for children in foster care;
- (4) The value of Low Income Energy Assistance ("LIEA") payments as provided in 42 U.S.C. § 8621, made to the applicant or to a vendor on behalf of the applicant, unless the request for emergency assistance is specifically for utility emergency assistance in which case the total amount of LIEA assistance currently available is applied to the requested amount;
- (5) The value of services program benefits of the Department paid on behalf of a client who is an applicant, including, but not limited to, homemaker assistance;
- (6) The value of vendor payments by the federal or District government, or its agents, on behalf of the applicant directly to a vendor, except that a Department-administered Rental Vendor payment made on behalf of an Aid to Families with Dependent Children client who is an applicant will be considered as part of an applicant's income;
- (7) The value of supplemental food assistance provided under programs of Women, Infants and Children ("WIC"), established pursuant to 42 U.S.C. § 1752, programs for children under the National School Lunch Act, estab-

lished pursuant to 42 U.S.C. § 1761, or other child nutrition programs, or benefits received under the Older Americans Act, established pursuant to 42 U.S.C. § 3027, including Title VII nutrition programs for the elderly, established pursuant to 7 U.S.C. § 3175;

(8) The amount of court-ordered child support required to be paid in the budget month by an applicant to another household;

(9) The earned income of persons age 14 and under;

(10) The earned income of junior or senior high school students over age 14 employed less than 20 hours per week or employed full-time in the summer months;

(11) Work incentive payments made by the District of Columbia Department of Employment Services; or

(12) The income of a SSI recipient, unless the SSI recipient chooses to be an applicant. (Mar. 16, 1989, D.C. Law 7-221, § 10, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002 and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

### § 3-1010. Income considered in determination of eligibility.

The following income must be considered in calculating the income of the applicant in the budget month:

(1) The net amount of ongoing income received during the budget month, including, but not limited to, income from a boarder, earned income, an Aid to Families with Dependent Children grant, child support payments received, Social Security retirement, survivors and disability insurance benefits, alimony, Veterans' Administration benefits, worker's compensation benefits, unemployment benefits including unemployment compensation benefits and other governmental unemployment benefits, payments from private sick and accident insurance plans, pensions, and retirement benefits, strike benefits, or military allotments;

(2) The value of a Rental Vendor Payment made to a vendor under the Aid to Families with Dependent Children program on behalf of the applicant;

(3) The net amount of discontinued, sporadic, or lump sum income, if it is received in the budget month or has been received in an earlier month and is still available to the applicant; and

(4) The income of an SSI recipient who is under the age of 21 years or who is 60 years of age or older, if the SSI recipient qualifies as an applicant. (Mar. 16, 1989, D.C. Law 7-221, § 11, 36 DCR 553; Aug. 17, 1991, D.C. Law 9-19, title I, § 102(c), 38 DCR 4066; Aug. 17, 1991, D.C. Law 9-27, § 3(c), 38 DCR 4205.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1008, and 3-1029.

**Effect of amendments.** — D.C. Law 9-27, in (4), inserted "who is under the age of 21 years or who is 60 years of age or older".

**Temporary amendments of section.** — Section 102(c) of D.C. Law 9-19 inserted "who

is under the age of 21 years or who is 60 years of age or older" in (4).

Section 401(b) of D.C. Law 9-19 provided that the act shall expire on the 225th day of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 102(c) of

the Omnibus Budget Support Emergency Act of 1991 (D.C. Act 9-37, May 17, 1991, 38 DCR 3390).

For temporary amendment of section, see § 102(c) of the Omnibus Budget Support Congressional Recess Emergency Act of 1991 (D.C. Act 9-69, July 24, 1991, 38 DCR 4945).

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Legislative history of Law 9-19.** — See note to § 3-1003.

**Legislative history of Law 9-27.** — See note to § 3-1003.

### § 3-1011. Assets and resources exempt from determination of eligibility.

The following resources or assets shall not be considered in calculating income available in the budget month:

- (1) The home and surrounding land in which the applicant lives;
- (2) All household furnishings and personal belongings in the home;
- (3) \$6,000 equity of 1 motor vehicle used for transportation;
- (4) The equity in 1 specially equipped motor vehicle used for transporting a physically disabled applicant;
- (5) Tools, machinery, or other property used for employment or self-employment, whether or not in the home;
- (6) A need-based loan made to an applicant for school related expenses;
- (7) The value of burial plans or burial insurance, unless the request for emergency assistance is for the purpose of burial, in which case the amount covered by the burial plan or insurance will be applied to the requested amount of emergency assistance; and
- (8) Resources of an applicant receiving SSI benefits, unless the SSI recipient has specifically requested to be an applicant for purposes of receiving emergency assistance. (Mar. 16, 1989, D.C. Law 7-221, § 12, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1012, and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

### § 3-1012. Assets and resources considered in determination of eligibility.

The following assets and resources are considered available to the applicant and will be considered in calculating income available to the applicant in the budget month:

- (1) The equity in all real property except the home and surrounding land in which the applicant lives;
- (2) The equity in all motor vehicles of the applicant not exempted under § 3-1011 (3) or (4);
- (3) The equity in any interest in recreational vehicles, including, but not limited to, boats, campers, trailers, motorcycles not exempted under § 3-1011(3), snowmobiles, or aircraft;
- (4) The equity of any interest in machinery, livestock, or other property or items that are not used for employment or self-employment;
- (5) The loan value available to the applicant in insurance plans or the cash or loan value available to the applicant pursuant to an agreement in an escrow or trust fund;



(6) The cash value of an Individual Retirement Account, or other deferred compensation plan, or pension funds that have been distributed from a plan and are actually available to an applicant;

(7) The actual cash value including, but not limited to, a checking account, a savings account, a certificate of deposit, stocks, and bonds;

(8) The actual cash value of countable resources that have been converted to cash in the budget month; and

(9) The equity in nonexempt resources that were sold, transferred, or traded for less than fair market value within the previous 12 months, when there is reason to believe that the action was taken for the purpose of becoming eligible for emergency assistance pursuant to this chapter. (Mar. 16, 1989, D.C. Law 7-221, § 13, 36 DCR 553; Feb. 5, 1994, D.C. Law 10-68, § 12, 40 DCR 6311.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1008, and 3-1029.

**Effect of amendment.** — D.C. Law 10-68 deleted "a" preceding "other deferred compensation plan" in (6).

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Legislative history of Law 10-68.** — Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned

Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

### § 3-1013. Computation of emergency assistance payments.

(a) For purposes of determining the amount of emergency assistance payments, the Mayor shall consider:

(1) Income received during the previous 30-day period, which shall begin on the day prior to the date of application; and

(2) Income certain to be received during the 30-day period following the date of application.

(b) Income certain to be received during the 30-day period immediately following application will not disqualify an individual who would be eligible based on the income of the 30 days preceding application.

(c) The emergency assistance payments shall be computed by:

(1) Establishing the total amount of countable income and resources available to the applicant;

(2) Determining the applicant's monthly expenses for basic necessities that are actual, reasonable, and appropriate given the applicant's circumstances; and

(3) Subtracting monthly expenses for basic necessities from the total amount of available countable income and resources. Any income that remains is deemed available to meet the costs, in part or total, of the emergency assistance request.

(d) An emergency assistance payment may be authorized which reflects actual need with the application of a payment maximum as may be necessary and as stipulated in each category of emergency assistance. (Mar. 16, 1989, D.C. Law 7-221, § 14, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002 and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Delegation of Authority Pursuant to D.C.**

**Law 7-221, the "Emergency Assistance Services Act of 1988".** — See Mayor's Order 89-168, July 25, 1989, as amended by Mayor's Order 89-233, October 5, 1989.

## § 3-1014. Emergency related eligibility.

Emergency assistance is available for the categories of emergencies enumerated in §§ 3-1015 through 3-1028:

(1) If the applicant has met all other eligibility criteria; and

(2) If 1 or more of the available categories of emergency assistance will substantially, if not entirely, alleviate the emergency during the 30-day period immediately following the initial authorization of payment resulting from an application. (Mar. 16, 1989, D.C. Law 7-221, § 15, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002 and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

## § 3-1015. Food emergency.

(a) Emergency assistance is available in a food emergency to an applicant who has applied for regular or expedited food stamps, or, if a current recipient, who is completely without food.

(b) Emergency assistance for food may be in the form of coupon, cash, or in-kind benefits at the discretion of the Mayor.

(c) The amount of emergency assistance shall not exceed the amount of a 3-day food stamp allotment.

(d) The Mayor may establish a mass feeding program pursuant to this chapter. (Mar. 16, 1989, D.C. Law 7-221, § 16, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1008, 3-1014, and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Amendment of Mayor's Order 89-168, dated July 25, 1989; Delegation of Authority Pursuant to D.C. Law 7-221, the "Emergency Assistance Program Act of 1988".** — See Mayor's Order 89-233, October 5, 1989.

## § 3-1016. Clothing emergency.

(a) Any applicant may receive emergency assistance to replace clothing lost, damaged, or destroyed due to fire, civil disorder, natural or chemical disaster, theft, or vandalism, as verified by a police report, that occurred within 30 days of the application. The provision of emergency assistance may be in-kind or in cash at the discretion of the Mayor.

(b) In determining eligibility for a clothing request under this section, only the income, resources, and assets of that applicant shall be considered.

(c) In addition to the conditions stated under subsection (a) of this section, an applicant with children under 18 years of age may receive emergency assistance for those children, if the lack of clothing would constitute a threat to health or safety or prevent school attendance. For the purposes of this

subsection, family size means the number of children in the household who are under 18 years of age.

(d) Emergency assistance in a clothing emergency shall be limited to the following maximum payments, if the clothing emergency assistance is in the form of cash:

<u>Number of Children Under 18</u>	<u>Amount of Assistance</u>
1	\$ 79.00
2	\$ 94.00
3	\$114.00
4	\$134.00
5	\$154.00

If there are more than 5 children under 18 years of age, add \$25 for each additional eligible child in the applicant unit. (Mar. 16, 1989, D.C. Law 7-221, § 17, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1008, 3-1014, and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Amendment of Mayor's Order 89-168, dated July 25, 1989; Delegation of Authority Pursuant to D.C. Law 7-221, the "Emergency Assistance Program Act of 1988".** — See Mayor's Order 89-233, October 5, 1989.

### § 3-1017. Essential household items emergency.

(a) Emergency assistance for the purchase of any household item, including, but not limited to, linens and cooking utensils, is available as follows:

(1) To replace an item lost, damaged, or destroyed due to a fire, civil disorder, natural or chemical disaster, or theft or vandalism, verified by a police report, that occurred within 30 days of application; or

(2) For the purpose of purchasing of essential household items to reunite a child under 18 years of age with the parents or prevent family displacement.

(b) The maximum total emergency assistance payment shall be the actual cost up to \$100. (Mar. 16, 1989, D.C. Law 7-221, § 18, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1014, and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

### § 3-1018. Essential large appliances emergency.

(a) Emergency assistance is available for the repair or replacement of a stove, refrigerator, or air conditioner, when medically necessary as verified by a physician, or a washing machine owned by the applicant.

(b) Appliances may be replaced only if repair of the appliance owned and previously used by the applicant is not more than the payment maximum for that item. A washing machine may only be repaired or replaced for an applicant with children under 18 years of age. An appliance repossessed for any reason cannot be replaced.

(c) Repair or replacement of an appliance may be authorized at actual cost up to the following emergency assistance payment maximums:

- (1) Stove - \$200;



- (2) Refrigerator - \$250;
- (3) Washing machine - \$200; and
- (4) Air conditioner - \$200.

(Mar. 16, 1989, D.C. Law 7-221, § 19, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1014, and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

## § 3-1019. Essential furniture emergency.

(a) Emergency assistance for the purchase of furniture may be granted as follows:

(1) To replace essential furniture when lost, damaged, or destroyed due to a fire, civil disorder, natural or chemical disaster, or theft or vandalism as verified by a police report, that occurred within 30 days of the application; or

(2) If the purpose of the furniture purchase is to reunite a child under 18 years of age with the parents or prevent family displacement.

(b) The maximum emergency assistance payment shall be limited to actual cost up to \$400. (Mar. 16, 1989, D.C. Law 7-221, § 20, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1014, and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Delegation of Authority Pursuant to D.C.**

**Law 7-221, the "Emergency Assistance Services Act of 1988".** — See Mayor's Order 89-168, July 25, 1989, as amended by Mayor's Order 89-233, October 5, 1989.

## § 3-1020. Rent emergency.

(a) Emergency assistance is available to prevent the imminent eviction of the applicant, which must be documented by a:

- (1) Landlord-tenant court summons or referral;
- (2) Writ of restitution;
- (3) Notice to vacate; or

(4) Verifiable documentation that the applicant is a tenant who has current rent arrearage.

(b) If the rent arrearage exceeds 6 months, the Mayor shall deny emergency assistance if the arrearage resulted from the expenditure of money for nonessential items, rather than an expenditure for basic necessities. If emergency assistance is granted, emergency assistance payments shall be limited to the actual cost of rent arrearage up to a maximum of \$450 per month. A total payment shall not exceed \$2,700 regardless of the number of months of arrearage.

(c) If mitigating factors are determined to exist, the Mayor may grant emergency assistance payments to pay the rent, including the first month's rent, of an applicant to prevent a family in which children under 18 years of age are present from becoming homeless or displaced. If emergency assistance is granted, the payments shall be limited to the actual cost of rent arrearage up to \$600 per month. A total payment shall not exceed \$3,600, regardless of the number of months of arrearage. (Mar. 16, 1989, D.C. Law 7-221, § 21, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1005, 3-1014, 3-1023, and 3-1029.

**Temporary amendments of section.** — Section 2(b) of D.C. Law 9-10 added a subsection (d) to read as follows:

"(d)(1) Notwithstanding the income eligibility standards set forth in § 3-1008, an applicant, who serves in a reserve component of the United States Armed Forces and who is called to active duty as a result of the Operation Desert Shield or Desert Storm Conflict, or a member of the applicant's household, as defined in § 3-1005, shall be eligible to receive rent emergency assistance if the conditions of this section are met.

"(2) The eligibility described in paragraph (1) of this subsection shall terminate 180 days after the applicant is released from active duty."

Section 3(b) of D.C. Law 9-10 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the Persian Gulf Housing Assistance Amendment Act of 1991, whichever occurs first.

**Emergency act amendments.** — For temporary amendment of section, see § 2(b) of the Persian Gulf Housing Assistance Emergency Amendment Act of 1991 (D.C. Act 9-23, April 26, 1991, 38 DCR 2726).

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Legislative history of Law 9-10.** — See note to § 3-1008.

**Amendment of Mayor's Order 89-168, dated July 25, 1989; Delegation of Authority Pursuant to D.C. Law 7-221, the "Emergency Assistance Program Act of 1988".** — See Mayor's Order 89-233, October 5, 1989.

## § 3-1021. Mortgage emergency.

(a) Emergency assistance is available to prevent an imminent foreclosure of a mortgage, if all of the following conditions are met:

(1) The applicant owns or is purchasing a home in the District;

(2) The owner or purchaser has equity in the property of at least 10% of the assessed value of the property or has made at least 12 consecutive monthly payments on the property;

(3) The applicant is living in the home; and

(4) The applicant has applied for and exhausted all benefits to which the applicant is entitled under the Delinquent Home Mortgage Payments Program as established by Chapter 24 of Title 45, before a decision can be rendered on eligibility for, and the amount of, emergency assistance under this chapter.

(b) Emergency assistance payments shall be limited to the actual cost of the mortgage arrearage up to a maximum of \$600 per month. The total payment shall not exceed \$2,000 regardless of the number of months of arrearage. (Mar. 16, 1989, D.C. Law 7-221, § 22, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1005, 3-1014, and 3-1029.

**Temporary amendments of section.** — Section 2(c) of D.C. Law 9-10 added a new subsection (c) to read as follows:

"(c)(1) Notwithstanding the income eligibility standards set forth in § 3-1008, an applicant, who serves in a reserve component of the United States Armed Forces and who is called to active duty as a result of the Operation Desert Shield or Desert Storm Conflict, or a member of the applicant's household, as defined in § 3-1005, shall be eligible to receive mortgage emergency assistance if the conditions of this section are met.

"(2) The eligibility described in paragraph (1) of this subsection shall terminate 180 days after the applicant is released from active duty."

Section 3(b) of D.C. Law 9-10 provided that the act shall expire on the 225th day of its having taken effect or upon the effective date of the Persian Gulf Housing Assistance Amendment Act of 1991, whichever occurs first.

**Emergency act amendments.** — For temporary amendment of section, see § 2(c) of the Persian Gulf Housing Assistance Emergency Amendment Act of 1991 (D.C. Act 9-23, April 26, 1991, 38 DCR 2726).

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Legislative history of Law 9-10.** — See note to § 3-1008.

**References in text.** — "Section 45-2401 et seq.", referred to in (a)(4), expired pursuant to

§ 9(b) of D.C. Law 5-98, as amended by § 2(c) of D.C. Law 6-152 which provided that the act shall expire 5 years from its effective date of August 10, 1984.

## § 3-1022. Essential home repairs emergency.

(a) Emergency assistance for home repairs is available if all of the following conditions are met:

(1) The applicant owns or is purchasing a home in the District;

(2) The owner or purchaser has equity in the property of at least 10% of the assessed value of the property or has made at least 12 consecutive monthly payments on the property;

(3) The applicant is currently living in the home unless temporarily absent because of the condition of the property; and

(4) The repair is necessary to protect the health or safety of the applicant. The home must be currently uninhabitable or is projected to be uninhabitable during cold weather. Repairs must restore the home to a habitable condition.

(b) The Mayor shall deny emergency assistance payments, if the property for which the applicant requests emergency assistance for home repairs:

(1) Is for sale;

(2) Is not the principal place of residence of the applicant; or

(3) Is being foreclosed.

(c) Emergency assistance is limited to the costs of repairing the following:

(1) The plumbing system;

(2) The water supply system;

(3) The waste disposal system;

(4) The electrical system;

(5) The heating system;

(6) Broken windows;

(7) Broken doors, including locks; and

(8) The roof and chimney.

(d) Repair of an essential home item or "system" shall be limited to actual cost up to a payment maximum of \$1,000. (Mar. 16, 1989, D.C. Law 7-221, § 23, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1005, 3-1014, and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Delegation of Authority Pursuant to D.C. Law 7-221, the "Emergency Assistance Services Act of 1988".** — See Mayor's Order 89-168, July 25, 1989, as amended by Mayor's Order 89-233, October 5, 1989.

## § 3-1023. Storage and moving emergency.

(a) Emergency assistance for storage and moving is available only if 1 of the following conditions is present:

(1) The applicant seeks to move from a dwelling that is condemned or one that constitutes a substantial threat to health or safety;

(2) The applicant is faced with an imminent eviction as specified in § 3-1020;



(3) The applicant is relocating to or from a family shelter; or

(4) The purpose of relocation is to prevent separation of a family in which a child under 18 years of age is present.

(b) Relocation or storage expenses shall be limited to the actual cost up to a maximum of \$500. (Mar. 16, 1989, D.C. Law 7-221, § 24, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1005, 3-1014, and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

### § 3-1024. Security or damage deposits.

(a) Emergency assistance is available for a security or damage deposit if:

(1) The landlord will not waive the deposit; and

(2) Both the applicant and the landlord sign a repayment agreement that provides that the deposit, less any amount for damages, shall be returned to the Mayor.

(b) A security or damage deposit can only be authorized:

(1) If the applicant is or will be homeless due to fire, civil disorder, or natural or chemical disaster; or

(2) The purpose of the deposit is to reunite a child under 18 years of age with his or her parent or prevent family breakdown; or

(3) In the case of a single individual or childless couple, the applicant is homeless and the provision of the emergency assistance would alleviate the homelessness.

(c) Payment shall be made directly to the landlord and shall be the actual amount of the deposit up to a maximum as specified by vendor. The amount of the security or damage deposit cannot be more than 1 month's rent. (Mar. 16, 1989, D.C. Law 7-221, § 25, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1005, 3-1014, and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

### § 3-1025. Deposit for heat or utility emergency.

(a) Emergency assistance is available for deposit payments, if required by a heating or utility vendor to restore or begin service. The deposit shall be paid directly to the vendor who must sign an agreement to return any refund to the Mayor.

(b) The costs of telephone installation, deposit for service, or reconnection, will be paid only if a telephone is a medical necessity. The necessity must be verified by the physician of the applicant. Telephone related costs will be paid directly to the vendor who must sign an agreement to return any refund to the Mayor.

(c) The amount of any deposit or reconnection fee shall be the actual cost up to a maximum of \$200. (Mar. 16, 1989, D.C. Law 7-221, § 26, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1005, 3-1014, and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

## § 3-1026. Utility emergency.

(a) Emergency assistance for utilities is available only if all of the following requirements are met:

- (1) The delinquent bill must be that of the applicant;
- (2) The termination of service must be actual or imminent; and
- (3) The applicant must apply for all benefits to which the applicant may be entitled under the Low Income Energy Assistance Program and other energy programs, including, but not limited to, the Washington Area Fuel Fund.

(b) Emergency assistance for telephone bills shall be provided if the need for a telephone is verified by the physician of the applicant as a medical necessity. The emergency assistance is limited to costs of the basic instrument and service; no long distance charges shall be paid.

(c) Emergency assistance for utility arrearage is limited to the actual cost, but shall not exceed \$1,000 for gas or oil, or \$500 for electricity or water. (Mar. 16, 1989, D.C. Law 7-221, § 27, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1005, 3-1014, and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

## § 3-1027. Necessities of employment.

(a) Emergency assistance is available for the necessities of employment if all of the following conditions are met:

- (1) The applicant is an adult who is a member of, and living with, a family where a child under 18 years of age is present; and
- (2) The employer verifies that the need is legitimate and that the necessary items are not provided by the employer.

(b) Emergency assistance is limited to:

- (1) Special clothing, including uniforms, not to exceed 2 outfits; or
- (2) Tools, which must be the minimum in number and quality necessary to the employment.

(c) The emergency assistance payment shall be limited to actual cost up to a maximum of \$100.

(d) In determining eligibility for emergency assistance to an individual with a child under 18 years of age under this section, only the income and resources of that applicant shall be considered. (Mar. 16, 1989, D.C. Law 7-221, § 28, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1014, and 3-1029.

**Legislative history of Law 7-221.** — See note to § 3-1001.

### § 3-1028. Burial assistance.

Emergency assistance is available for burial and cremation services if the liquid assets of the deceased person at the time of death do not exceed \$801 for a deceased adult, \$641 for a deceased child, or \$534 for a deceased infant. (Mar. 16, 1989, D.C. Law 7-221, § 29, 36 DCR 553.)

**Section references.** — This section is referred to in §§ 3-1002, 3-1008, and 3-1014.

**Legislative history of Law 7-221.** — See note to § 3-1001.

### § 3-1029. Multiple emergency assistance requests.

(a) The applicant requesting emergency assistance for more than one 30-day period during a 12-consecutive-month period must meet the following eligibility criteria in addition to the criteria specified in §§ 3-1002 through 3-1027:

(1) The subsequent request for emergency assistance must be for a different category of emergency assistance than the prior request, unless the emergency assistance is requested by an applicant unit whose members include a child under 18 years of age, a person over 65 years of age, or a recipient of general public assistance, or SSI and the emergency assistance is for food, housing, or utilities;

(2) The applicant must have a stable, ongoing plan of management in which income and resources reasonably expected to be available exceed or are equal to the cost of basic necessities; and

(3) The applicant must demonstrate that the emergency is the result of an expenditure for basic necessities.

(b) If emergency assistance is granted under this section, the Mayor shall require, as a condition of receiving emergency assistance, that the applicant attend at least 1 financial counseling session before receiving emergency assistance. (Mar. 16, 1989, D.C. Law 7-221, § 30, 36 DCR 553.)

**Section references.** — This section is referred to in § 3-1003.

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Delegation of Authority Pursuant to D.C.**

**Law 7-221, the "Emergency Assistance Services Act of 1988".** — See Mayor's Order 89-168, July 25, 1989, as amended by Mayor's Order 89-233, October 5, 1989.

### § 3-1030. Waiver by Mayor.

(a) Notwithstanding any other provision of this chapter, the Mayor may, when there is evidence of extraordinary mitigating factors:

(1) Authorize emergency assistance not specifically covered in this chapter, if the emergency assistance is necessary to avoid or alleviate the emergency of an otherwise eligible applicant;

(2) Recognize certain emergencies that are not specified in this chapter, but which pose a threat to the health or safety of an otherwise eligible applicant; and



(3) Exceed payment maximums as established by this chapter if the additional emergency assistance is necessary to avoid destitution of an otherwise eligible applicant.

(b) Emergency assistance payments granted under this section may not exceed \$750 and shall not be available through any other District program administered by the Mayor.

(c) The Mayor shall report to the Council annually, and make available to the public, an itemized accounting of any expenditure made pursuant to this section. (Mar. 16, 1989, D.C. Law 7-221, § 31, 36 DCR 553.)

**Section references.** — This section is referred to in § 3-1003.

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Delegation of Authority Pursuant to D.C.**

**Law 7-221, the "Emergency Assistance Services Act of 1988".** — See Mayor's Order 89-168, July 25, 1989, as amended by Mayor's Order 89-233, October 5, 1989.

### § 3-1031. Rules.

(a) Within 60 days of March 16, 1989, the Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1, issue proposed rules to implement the provisions of this chapter. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 45-day review period, the proposed rules shall be deemed approved. The proposed rules shall include provisions regarding an appeals procedure for applicants who have been denied emergency assistance.

(b) Pursuant to subsection (a) of this section, the Mayor may issue rules to adjust the dollar limits in this chapter to reflect annual changes in the cost of living and to adjust the income eligibility standards to reflect changes in the poverty line measurement, as promulgated by the United States Bureau of the Census. (Mar. 16, 1989, D.C. Law 7-221, § 32, 36 DCR 553.)

**Section references.** — This section is referred to in § 3-1032.

**Legislative history of Law 7-221.** — See note to § 3-1001.

**Approval of proposed rules.** — Pursuant to Resolution 8-130, the "Emergency Assistance Program Act Proposed Rules Approval Resolution of 1989", effective November 7,

1989, the Council approved the proposed rules issued pursuant to the Emergency Assistance Program Act of 1988.

**Delegation of Authority Pursuant to D.C. Law 7-221, the "Emergency Assistance Services Act of 1988".** — See Mayor's Order 89-168, July 25, 1989, as amended by Mayor's Order 89-233, October 5, 1989.

### § 3-1032. Appeals.

(a) An applicant for emergency assistance who has been formally denied emergency assistance shall be entitled to a review of that denial pursuant to an appeal procedure established by the Mayor, by rule, pursuant to § 3-1031.

(b) Within 10 business days from the date of the notice of denial, the applicant shall be provided a clear, concise written statement informing the applicant of the reasons for the denial. The written notice shall also inform the

applicant of his or her right to appeal the denial and the steps the applicant must take to appeal the denial.

(c) An applicant shall have 30 business days in which to file an appeal.

(d) An applicant shall not be denied emergency assistance if the applicant is attempting to obtain and furnish required information and has informed the Department accordingly. If an applicant has not furnished the required information and has not contacted the Department for 60 days, the application shall be considered abandoned and the applicant shall have no right of appeal.

(e) The appeal procedures provided by this section and any subsequent judicial review sought pursuant to § 1-1510, shall be the exclusive remedy for violations of this chapter. (Mar. 16, 1989, D.C. Law 7-221, § 33, 36 DCR 553.)

**Legislative history of Law 7-221.** — See note to § 3-1001.

CHAPTER 11. D.C. GENERAL HOSPITAL HOSPICE PROGRAM.

Sec.

3-1101. Definition.

3-1102. D.C. General Hospital Hospice Program; established.

Sec.

3-1103. Appropriations.

3-1104. Rules.

3-1105. Report.

§ 3-1101. Definition.

For the purposes of this chapter, the term "terminal condition" means an incurable condition caused by injury, disease, or illness, which, regardless of the application of life-sustaining procedures, would, within reasonable medical judgment, produce death within 6 months or less. (Mar. 16, 1989, D.C. Law 7-210, § 2, 36 DCR 478.)

**Legislative history of Law 7-210.** — Law 7-210, the "D.C. General Hospital Hospice Program Establishment Act of 1988," was introduced in Council and assigned Bill No. 7-147, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act

No. 7-281 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — As enacted by D.C. Law 7-210, § 2, this section contained the subdivision designation "(1)." As this material contained no other subdivision designations, the designation "(1)" has been deleted for stylistic consistency.

§ 3-1102. D.C. General Hospital Hospice Program; established.

(a) There is established a hospice program to be administered by the D.C. General Hospital. The purpose of this program shall be to:

(1) Provide care and support for the patients who have a terminal condition;

(2) Educate consumers and providers regarding the benefits of hospice programs; and

(3) Encourage volunteerism to assist the terminally ill.

(b) The program shall be designed to enable the patient to live as fully as possible during the final period of his or her life.

(c) The program shall be administered by the Hospice Program Coordinator ("Coordinator"), who shall be appointed by the Executive Director of D.C. General Hospital ("Executive Director"), with the consent of the D.C. General Hospital Commission ("Hospital Commission"), within 120 days after March 16, 1989. The Coordinator position shall be full-time.

(d) The duties of the Coordinator shall include, but not be limited to:

(1) Assisting and counseling the family of the patient before and after the death of the patient;

(2) Educating the D.C. General Hospital health-care staff and the community about the hospice concept and the program's activities;

(3) Establishing a hospice volunteer program utilizing existing systems and community resources;

(4) Selecting, with the consent of the Executive Director and the Hospital Commission, a location to carry out the functions of the program; and



(5) Establishing an inpatient component of the program pursuant to § 32-301 et seq.

(e) There shall be a hospice care team that shall carry out the purposes of this chapter and provide for the physical, emotional, and spiritual needs of the terminally ill patient.

(f) The program shall offer the following types of services:

- (1) Inpatient management;
- (2) Home care;
- (3) Clinic treatment;
- (4) Bereavement counseling; and

(5) Consultation with attending physicians. (Mar. 16, 1989, D.C. Law 7-210, § 3, 36 DCR 478.)

**Legislative history of Law 7-210.** — See note to § 3-1101.

### § 3-1103. Appropriations.

There is authorized to be appropriated funds necessary to carry out the purposes of this chapter. (Mar. 16, 1989, D.C. Law 7-210, § 4, 36 DCR 478.)

**Legislative history of Law 7-210.** — See note to § 3-1101.

### § 3-1104. Rules.

Within 120 days of March 16, 1989, the D.C. General Hospital Commission shall, pursuant to § 32-220, issue proposed rules to implement the provisions of this chapter. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved. (Mar. 16, 1989, D.C. Law 7-210, § 5, 36 DCR 478.)

**Legislative history of Law 7-210.** — See note to § 3-1101.

### § 3-1105. Report.

The D.C. General Hospital Commission shall report, on an annual basis beginning December 31, 1989, to the Council of the District of Columbia regarding the development of the program and the number of patients served. (Mar. 16, 1989, D.C. Law 7-210, § 6, 36 DCR 478.)

**Legislative history of Law 7-210.** — See note to § 3-1101.













